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SIXTEEN VOLUMES.

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CORPORATIONS (SCOTLAND):

GENERAL REPORT AND LOCAL REPORTS.

Session

19 *February*——10 *September* 1835.

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CORPORATIONS (SCOTLAND):

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GENERAL REPORT

OF

THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE STATE

OF

MUNICIPAL CORPORATIONS

IN

SCOTLAND.

Presented to both Houses of Parliament by Command of Her Majesty.

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COMMISSION

FOR

INQUIRING AS TO THE EXISTING STATE OF MUNICIPAL CORPORATIONS IN SCOTLAND.

WILLIAM R.

OUR WILL and PLEASURE is, that Letters Patent be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of Scotland, in the words or to the effect following: viz.

WILLIAM THE FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, &c.

TO our trusty and well-beloved *John Boyd Greenshields, Thomas Thomson, Robert Bell, James Campbell, Robert Græme, Andrew Skene, John Cuninghame, Robert Jameson, James Ivory, Robert Hunter, Cosmo Innes,* and *Robert Handyside.*

WHEREAS we have thought it expedient, for divers good causes and considerations Us thereunto moving, that a general Inquiry should forthwith be made into the State and Condition of the several Cities, Burghs, and Towns of Scotland;

KNOW ye that We, reposing great Trust in your Fidelity, Discretion, and Ability, have authorized and appointed, and by these presents do authorize and appoint you the said *John Boyd Greenshields, Thomas Thomson, Robert Bell, James Campbell, Robert Græme, Andrew Skene, John Cuninghame, Robert Jameson, James Ivory, Robert Hunter, Cosmo Innes,* and *Robert Handyside,* or any one or more of you, to make a general Inquiry into the State and Condition of the several Cities, Burghs, and Towns of Scotland, and particularly,

1st, As to the Property, Revenues, and Debts, and the Administration and Management thereof, and by what Regulations or Provisions such Administration may for the future be best guarded and controuled.

2nd, As to the Nature and Extent of the Powers of taxing or assessing the Inhabitants of such Burghs now exercised by the Magistrates and Councils thereof, and the Terms and Conditions under which it may be fit that such Powers should hereafter be exercised.

3rd, As to the Boundaries or Territory over which the Municipal Authority and Jurisdiction ought to extend, and as to the best Method of uniting and consolidating contiguous subordinate Burghs or adjacent Districts lying within the Parliamentary Boundaries of such Cities and Burghs, in respect of their Municipal Government, Local Jurisdiction, and otherwise.

4th, As to the Nature and Extent of the Jurisdictions now belonging, or which ought to belong, to the Municipal Authorities of all or any of the said Cities, Burghs, or Towns, and as to the best Method of defining or distributing such Jurisdictions.

5th, As to the Patronage and Right of Appointment to Offices, whether Civil or Ecclesiastical, which may now belong to such Magistrates and Councils, and the Conditions under which it should in future be exercised.

6th, As to the Exclusive Privileges now claimed or enjoyed by any Craft, Trade, or other Incorporation than of the said Burghs.

7th, As to the Manner in which the Councils, Magistrates, and Office-bearers are appointed and continued in Office in such Burghs, and what Changes may be advantageously made in these particulars, or in the Numbers and Functions of the said Persons, or any of them.

8th, As to the Provisions for maintaining the Police of such Burghs, and what may be fit to be done for its better Maintenance and Regulation.

9th, As to what may be fit to be done as to those small or decayed Burghs, to which Regulations calculated for more considerable Places cannot be conveniently extended.

And for the better discovery of the truth in the premises, We do, by these presents, give and grant to you, or any one or more of you, full power and authority to call before you, or any one or more of you, such and so many of the Officers of the said Corporations, and such other persons as you shall judge necessary, by whom you may be the better informed of the truth in the premises, and to inquire of the premises, and every part thereof, by all other lawful ways and means whatsoever: And We do hereby give and grant unto you, or any one or more of you, full power and authority, where the same shall appear to be requisite, to administer an Oath or Oaths to any person or persons whatsoever to be examined before you, or any one or more of you, touching or concerning the premises: And We do also give and grant to you Our said Commissioners, or any one or more of you, full power and authority to cause all and singular the Officers, Clerks, and other persons belonging to the said Corporations, to bring and produce upon Oath, before you, or any one or more of you, all and singular Charters, Rolls, Records, Orders, Deeds, Books, Papers, or other Writings belonging to the said Corporations, or belonging to any of the Officers of the said Corporations as Officers thereof, touching the premises: And Our further Will and Pleasure is, that you, or any three or more of you, upon due examination of the premises, do and shall, within the space of Six Calendar Months after the date of this Our Commission, or sooner if the same can reasonably be, certify unto Us in writing, under your hands and seals, all and every your several proceedings by force of these presents, together with what you shall find touching or concerning the premises upon such inquiry as aforesaid.

And We further Will and Command, and by these presents ordain that this our Commission shall continue in full force and effect, and that you Our said Commissioners, or any one or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment: And We do hereby direct and appoint that you, or any one or more of you, may have liberty to certify your several proceedings from time to time to Us in writing, under your hands and seals, as the same shall be respectively completed and perfected.

And We hereby command all and singular Our Justices of the Peace, Sheriffs and Stewards, Magistrates of Burghs, Constables, Officers, Ministers of Justice, and all other Our loving subjects whatsoever, that they be assistant to you and each of you in the execution of these presents.

And We also hereby nominate and appoint Our trusty and well-beloved *Phineas Daniel* to be Clerk or Secretary to you Our said Commissioners, and authorize you, or the senior member present, at any of your meetings, to administer to him the Oath, *de fideli administratione*, in common form.

And We hereby direct and command that the said Letters Patent do pass the Seal aforesaid, *per saltum*, without passing any other Seal or Register. For doing whereof these presents shall be to the Directors of Our Chancellary for writing the same, and to the Lord Keeper of the said Seal, for causing the same to be appended thereunto, a sufficient Warrant.

Given at Our Court at Saint James's, the Fifteenth Day of July 1833, in the Fourth Year of Our Reign.

By His Majesty's Command,

MELBOURNE.

MUNICIPAL CORPORATIONS' INQUIRY,

SCOTLAND.

GENERAL REPORT.

TO THE KING'S MOST EXCELLENT MAJESTY.

WE, the Commissioners appointed by your Majesty to inquire into the state and condition of the several Cities, Burghs, and Towns of Scotland, have proceeded to obey Your Majesty's commands, under a due sense of the important trust reposed in us; and do now humbly beg leave to lay before Your Majesty the result of our inquiries.

In obeying the Instructions contained in the Commission under which we have acted, we have considered them as intended to apply not only to the ancient Burghs Royal of Scotland, and those Towns or Burghs on which the privilege of Parliamentary election has been recently conferred, but also to those other Towns of considerable or growing importance, whether already constituted into Burghs of Regality or Barony, or hitherto destitute of any municipal form and constitution, which might appear to us to require particular regulation.

In order to elicit all necessary information, and as preparatory to personal visitations by some of our number, detailed Heads of Inquiry were framed and transmitted to the Chief Magistrates, and other principal Officers of the several Burghs and Towns of Scotland; and having arranged the whole into classes or districts, we delegated two of our number to visit each district and report to us on the state and condition of the Towns and Burghs particularly assigned to them, with the exceptions of Edinburgh and Glasgow, as to which the more intricate investigations were found to require the co-operation of the General Board.

In further aid of these inquiries, we have had recourse to printed Reports from Committees of the House of Commons in the years 1793, 1819, 1820, and 1821, and to the original Returns to Parliament made by the Magistrates of Royal Burghs in pursuance of an order of the House of Commons in 1832.

In the prosecution of these inquiries, we have very rarely experienced, on the part of the Magistrates or Burgh Officers, any reluctance to disclose to us their Records, or other written documents connected with the administration of their affairs; and in their parole declarations, whether taken by the visiting Commissioners or given at the Board, every required information has, with scarcely any exception, been willingly afforded. Opportunities also have been given to the Members of Corporations, and to the inhabitants of Burghs generally, of conveying to us such information as they should deem of importance.

In this manner, a great mass of evidence, documentary and parole, has been collected, in reference to the various Heads of our Inquiry, from which has been drawn a series of Local Reports on the state and condition of the several Burghs and Towns of Scotland; framed, in the first instance, by the visiting Commissioners, and afterwards subjected to the consideration of the General Board. And in order to bring the more important results of these inquiries into a clear and condensed view, they have been embodied by us into the following General Report, in which we have also offered such suggestions as have appeared to us best adapted to remedy existing evils, and to provide for the better government and administration of the whole in future.

After a brief and cursory review of the early History and Constitution of Burghs, we have proceeded, nearly in conformity with the terms of the Commission, to dispose our observations under the following Heads:—

First, The Property of Burghs, either original or acquired, and the Administration and Management thereof.

Second, The Revenue of Burghs derived from Taxation, whether direct or indirect.

Third, The Jurisdiction belonging to the Magistrates of Burghs, both Civil and Criminal; including what regards the Maintenance of Police.

Fourth, The Patronage and Right of Appointment to Offices, Civil and Ecclesiastical, belonging to the Magistrates and Councils of Burghs.

Fifth, The exclusive Privileges of Trade and Manufacture belonging to the Freemen of Burghs.

Sixth, The Union and Consolidation of contiguous Burghs, and of adjacent Districts lying within the Parliamentary Boundaries of Burghs.

Seventh, The Constitution of Magistracies in Royal and Parliamentary Burghs, and in other Burghs and unincorporated Towns.

In presenting our Report to Your Majesty, we hope to be pardoned for here alluding to the heavy loss which this Commission has sustained by the recent death of two of its most distinguished members. While we have to regret this loss, we have the satisfaction of stating, at the same time, that on nearly all the topics which we have been called to consider, we have had the benefit of their wisdom and experience; and that, in most of the opinions embraced in our Reports, we have good reason to believe they would have entirely concurred.

INTRODUCTION.

IN executing the task committed to us, we have not thought it necessary to carry back our inquiries very far into the ancient history of the royal burghs of Scotland. In reference to any practical questions occurring at the present day, we are not aware that such inquiries could lead to any important or useful results; the more especially as the origin and state of the burghs of Scotland, in common with those of our other political establishments, are unfortunately involved in all the obscurity arising necessarily from the absence or loss of contemporaneous and authentic documents. The facts that remain on record, or that can be relied on with reasonable confidence, are of a very limited extent, and seem, in general, to indicate that the institution of burghs in Scotland, and their peculiar privileges and immunities, were closely analogous to what they are known to have been in the other countries of Europe.

In Scotland, at a period not long anterior to the establishment of a firm and vigorous government, the inhabitants of the hamlets or villages who were drawn together under the immediate protection of a royal or baronial castle, were at first, probably, in a state of absolute villanage, without property in the soil, and enjoying no other rights or advantages than might have been conceded to them by the arbitrary will or tolerance of their overlord. As far as their condition can be traced, it would appear that the little traffic which their scanty means enabled them to carry on was subjected to heavy burdens and impositions for the benefit of the sovereign or the chief whose protection they shared. Inconsiderable, however, as the revenue thus extorted must have been, and severely as it must have been felt by such infant traders, this system of oppression appears to have led directly and with certainty to their ultimate emancipation. In the view of improving their own revenues, the sovereign, and, in imitation of him, the more powerful military barons, became gradually more and more interested in the prosperity of their vassals; and in this, as in many later instances when more enlightened views might have been expected, the first rude expedient of political wisdom was that of exclusive privileges. In this respect, the towns belonging in property to the Crown appear to have taken the lead. In these, associations of traders, which at first may have been spontaneous, received the sanction of royal authority, were fostered by more especial protection from extraneous injury and oppression, were recognised as alone entitled to trade within certain territorial limits, and in return became willingly liable to a regulated imposition of tolls, duties, or customs.

In the absence of contemporaneous evidence, it would be unwarrantable to affect any thing like certainty in tracing the gradual progress of the relations established between the Crown and the mercantile classes of the people; but the probability seems to be, that privileged societies of the kind now alluded to, and which were well known under the names of *hanses* and *gilds*, preceded and led the way to those larger and more comprehensive aggregations of the inhabitants of towns, of which those gilds, without being entirely blended into the general mass, became an integral and the most important part. In that more complete form, the institution of burghs in Scotland has not in general been dated prior to the beginning of the twelfth century; and David I., whose reign of nearly thirty years terminated in 1153, has been commonly regarded as their chief, if not their first founder. Of this, however, no direct and conclusive evidence is to be found in any existing charters of that monarch, nor in those of his immediate successors; but if the ancient capitulary, entitled "Leges et Consuetudines Burgorum Scotiæ," or even any considerable portion of it, be, as has been supposed, of the age of David I., there must then at least, if not at a still earlier period, have existed in Scotland burghs royal, of a structure and constitution not essentially different from those of more recent date. And although there is not to be now found any charter of erection granted by that monarch, in favour of any burgh royal, there exist in the chartularies of religious houses, and in other authentic records, numerous grants of property to bishops and abbots, which are described as situated in particular burghs.

Thus, for example, to the abbot and friars of Dunfermline, David I. granted "unum plenarium toftum in burgo meo de Hadingtun—libere et quiete ab omni consuetudine et servicio sicut predictus Abbas tenet aliquod toftum melius et liberius per burga mea." To the same monastery he gave, by an instrument addressed "Prepositis de Perth,"—"unum toftum in meo burgo de Perth quietum de omnibus rebus;" and by another instrument,—"unam mansuram in burgo meo de Dunfermelin liberam et quietam, et aliam in burgo meo in Strivelin, et aliam in

Introduction.

burgo meo de Perth, et aliam in burgo meo de Edenesburgh." And to the priory of Urquhart, a cell of Dunfermline,—"viginti solidos singulis annis ad vestimenta eorum de firma burgi mei et aquarum de Elgin."

These instances, taken at random from a single chartulary, may be sufficient to shew, that in the reign of David I. many towns or villages were denominated burghs, to which the name of burghs royal might, in one sense, be given, inasmuch as they appear, from their designation, to have belonged in property to the Crown; but that any of these, even the most considerable, had then attained the rank and condition of a royal burgh, in the legal sense of the name, seems at least extremely doubtful. Perhaps from a still earlier period their inhabitants, at least certain classes of them, had been in the enjoyment of certain privileges and immunities, and of an exemption from those oppressive restrictions and burdens on the transfer and sale of commodities under which the country at large must have suffered so severely; but there were probably still wanting the more essential *criteria* of proper burghs royal—the erection of the burgesses into communities, or municipal corporations, and the grant of property to the individuals and the community, under a permanent feudal tenure, in return to the Crown for certain fixed rents or *maills*, and the performance of certain personal services for the security of the public peace.

In this more matured and artificial form, however, a considerable number of the present burghs royal of Scotland appear to have existed in the reigns of Malcolm IV., William the Lion, and their successors, Alexander II. and Alexander III.; and various original muniments have been preserved which seem to leave no doubt of the fact. Yet among these, although to some of them has been usually given the title of charters of erection, there is scarcely one which seems, in strict propriety, to warrant that denomination. In all of them are to be found grants, or recognitions, by the Crown, of valuable rights and privileges to be enjoyed by the burgesses, within certain parts of the adjoining country, of which the boundaries are frequently defined; and in most of them are contained grants of land to be holden and enjoyed in common, or for the benefit of the whole. But, in all such grants, the previous existence of a community, or social body, would seem to be implied; at least, in none of them does there appear any direct exercise of the royal prerogative in the creation of a body corporate; and the inference seems almost irresistible, that what otherwise might have been regarded as the most difficult, certainly the most artificial, step in their progress, may in reality have been the spontaneous and silent result of circumstances and situation, connecting together a number of individuals by the powerful affinities of mutual support and common interest. In this view, the received hypothesis, that what are now called corporations *by prescription* must be presumed to have had royal charters, now lost or destroyed, may be regarded not so much as an historical truth as a legal fiction, resorted to for the solution of a difficulty arising from the rules and practice of a later period.

Among the burgal muniments of the twelfth and thirteenth centuries now extant, a charter, granted by King William the Lion, to the burgesses of Ayr, has been considered as one of the most perfect examples of an original grant of this kind;* and, as such, it might have been expected to form an exception from the observations now made. It will be found, however, not to differ essentially from those in favour of other burghs; and it serves, perhaps, to prove more directly than any other, that the peculiar character and legal attributes of a corporation or community did not flow from any express declaration or enactment, but were, in some sort, the natural and necessary result of that common interest bestowed on the inhabitants. In the year 1197, King William had built a castle on the river Ayr, and had encouraged the settlement of a town or burgh, where probably a village had long existed: in the words of the Chronicle of Melrose, "Anno 1197—Factum est novum oppidum inter Don et Ar." About ten years afterwards he granted the charter above alluded to. It sets out with a declaration that, at his new castle upon Ayr, he had made a burgh, (*burgum fecisse,*) and had granted to *his burgesses* resident therein (*burgensibus meis in eo manentibus*) all the liberties and free customs throughout the kingdom enjoyed by his other burghs and resident burgesses, together with a weekly market; and to the burgesses who shall come and inhabit his said burgh, and shall there settle and remain, he grants an exemption from all tolls and customs on their own proper goods, (*dominicis catallis suis,*) the exaction of which he strictly prohibits. To the burgh and the resident burgesses he gives an adjacent territory, under certain conditions, and for a rent payable to the Crown by each burgess; and certain stations are specified for the collection of

* See Appendix.

tolls and customs by the burgh officers, which indicate the extension of the burgal liberties over a large district of country, within the whole of which this right of collecting tolls and customs is to be maintained and protected.

In this charter, as in all others of the same early date, there are evidently no words of *incorporation*, such at least as would now be deemed requisite; and the obvious inference seems to be, either that the mere denomination of *burgum* in a royal grant was held sufficiently to import the immediate creation of a corporate character in the inhabitants, or, as seems more probable, that such artificial unions, instead of being the sudden product of royal prerogative, were the slow and natural growth of circumstances and situation. It is in accordance with this supposition that the original right and character of burgess appear to have depended on the actual possession of real property within the burgh. In the charter of William the Lion, quoted above, the meaning of the clause seems to be, that all those are to be burgesses of Ayr, and entitled to the peculiar privileges thereby conferred, "qui illuc venient ad burgum meum inhabitandum et ibi sedentes et manentes erint." And in some of the earliest charters to other burghs royal similar declarations are contained, from which it seems just to infer, not merely that a freeman was bound to acquire property within the burgh, but that such acquisition constituted the prime, if not the sole qualification, and entitled him to those privileges and immunities which constituted the peculiar advantages of burghership.

A further corroboration of the same view may be derived from those early grants of mercantile privileges, which embrace, not the inhabitant burgesses of any particular town, but the burgesses of a large district of country. In a charter of William the Lion, recited and confirmed in a charter by King James III. to the burgh of Inverness,* there is a grant, "burgensibus meis de Moravia, ut nullus scilicet in terra mea, eorum namum capiat pro alicujus debito, nisi pro eorum debito proprio:" a description of privileged persons which seems to exclude the supposition of their being connected in one general corporation; and leads to the conclusion that their claims of privilege depended on the possession of property situated in burghs belonging to the Crown. An analogous instance occurs in a very remarkable grant by William the Lion, preserved in the archives of Aberdeen,* which gives "omnibus burgensibus meis de Aberdoen, et omnibus burgensibus de Moravia, et omnibus burgensibus ex aquilonali parte de Munth manentibus, liberum Ansum suum, tenendum ubi voluerint, et quando voluerint, ita libere et quiete plenarie et honorifice sicut antecessores eorum tempore Regis David avi mei Ansum suum liberius et honorificencius habuerunt."

This document, while it serves to indicate that the individuals in whose favour it was conceived could not have been united into a single burgal community, in the present meaning of the terms, may be regarded as proving that, among the traders of the country, there had been formed a sort of federal connexion, and that to the north of the Grampian mountains there existed a set of *hanse towns*, whose alliance, and whose common privileges and immunities, had been recognised and protected at least as early as the reign of King David I.

Although the existing muniments of the more ancient burghs of Scotland do not afford examples of a direct creation of the whole burgesses into the artificial form of a community or corporation, yet, in perfect consonance with the preceding remarks, there occur very early instances in royal charters of a licence to establish, or, more properly, to continue and uphold, a merchant guild, (*gilda mercatoria*,) or confraternity of merchants; as an example of which it may be enough to quote a charter of Alexander II. to the burgh of Aberdeen, which contains this clause: "Concedo etiam eisdem burgensibus meis de Aberden ut habeant gildam suam merchatricem, exceptis fullonibus et telariis." Without stopping to inquire into the reasons of the exception, it may be remarked that the phraseology of the clause, which is nearly the same in many other grants of that age, seems rather to import the recognition and mere approbation of an existing confraternity than the original creation of a body corporate. The true relation of these merchant guilds to the general body of burgesses, it is now difficult to trace. That all the brethren of the guild were also burgesses is abundantly evident; but that all burgesses, that is, all possessors of a certain property in the burgh, were guild brethren, or entitled, as a matter of right, to a place in the guild, it would be difficult to establish; and, indeed, the exception of fullers and weavers seems a sufficient proof of the contrary. Where two of the more skilled and important of the mechanical crafts were thus expressly excluded, it seems difficult to suppose that others of

* See Appendix.

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inferior importance or skill could have been entitled in this respect to assume a higher rank. Without asserting that any particular class of burgesses, with a few exceptions, were absolutely excluded, it seems abundantly evident that commerce, in contradistinction to mechanical arts, had formed the original basis of these associations. The probability seems therefore to be, that the other classes of burgesses were, by imitation, and for somewhat similar purposes, gradually drawn together into separate fraternities, and that these subordinate combinations were the germ of those societies of craftsmen which in most of the towns of Scotland assumed at length a regular corporate form. Of this tendency an indication may be perceived in a set of burgal ordinances, entitled "Statuta Gildæ,"* compiled before the end of the thirteenth century, in which the formation of separate and rival guilds or associations of burgesses is anxiously deprecated.

Whatever may have been their origin and commencement, the existence of communities, embracing the whole body of burgesses, is clearly recognised in the charters of the thirteenth century; and, in their legal character and general constitution, the burghs royal of Scotland appear to have then attained the state in which they ever afterwards remained.

In the first place, in regard to the real property of burghs, the rights of the Crown, of the community, and of the individual burgesses, were moulded into a peculiar but regular feudal form. Instead of being merely the precarious tenants of the King, the individual members of the community obtained a right of property in their own separate *tofts* or tenements, became the immediate vassals of the Crown, and were bound to pay into the royal treasury certain fixed yearly rents, independently, of their personal services. These rents were collected in each burgh by the public functionaries, so well known under the name of *ballivi*, or bailies; who were undoubtedly, at first, appointed by the Crown, and who accounted periodically in exchequer for the amount of their receipts. Besides these separate *tofts* or tenements belonging to individuals, there were, in many cases, valuable estates granted to the community, in the application and enjoyment of which various modes appear to have been adopted; and although the amount of rent paid by individual burgesses may have been affected by the degree and value of their participation in the benefit of such common property, it does not appear that for this any separate or additional rent was required from the community. Like the separate tenements of the burgesses, it was holden of the Crown by the feudal tenure of burgage, but was truly in the nature of a trust estate, and strictly inalienable; in return for which, the burgesses and their successors in all time coming were placed under obligations to the Crown for the maintenance of peace and good order at home, as well as for a certain amount of service in the armies of the King.

Under the original feudal arrangements now alluded to, the burgh was a part of the royal property, occupied by an aggregation of separate vassals, paying each his separate quota of rent; and the courts of justice held within the burgh, like all others immediately under the Crown, were made an additional source of revenue, arising from fines and other impositions known under the general name of the issues of court, (*exitus curiæ.*) From unavoidable fluctuation and uncertainty in the amount of both classes of burgal revenue, these periodical settlements must have proved matter of trouble and vexation to all parties. Accordingly, it appears that at least as early as the beginning of the fourteenth century, a practice was introduced of fixing the precise amount of the *charge* against the bailies, by granting to them, or rather to the communities for which they acted, short leases of the Crown rents and issues within their respective burghs, for payment into exchequer of a fixed rent or *census burgalis;* leaving, it may be presumed, a certain balance in favour of the community. These temporary and convenient leases or assedations appear to have led the way, in no very long time, to a permanent arrangement, as on this score at least, between the Crown and most of its burghs. Without affecting the previous feudal tenure under the Crown of the individual burgesses, nor even that of the common property of the burgh, there was made over to the community a perpetual and heritable right to the Crown rents or *maills* and issues within the burgh, for payment annually into exchequer of a fixed sum. Agreeably to feudal forms, this was effected by granting to the community the burgh itself to be holden of the Crown *in feu-farm;* and, in virtue of this tenure, the right of the burgal functionaries to enforce recovery and payment was as complete as had been that of the Crown's immediate officers. Two of the earliest feu-farm charters now extant, that in favour of Edinburgh by Robert I. in 1329,† and that in favour of Dundee by

* Statuta Gildæ, cap. 1, apud Skene, Veteris Leges Scotiæ, fo. v. 154. † See Rep. Edin.

David II. in 1359,* have been particularly referred to as examples, in the Local Reports on these burghs; and it may here be added that, in the accounts of the bailies of these burghs rendered in exchequer, the charge against them is stated as arising "de firmis et exitibus burgi per assedationem eis factam in feodo." In this form the accounting has been continued down to the present day.

In regard to the actual state of the real property thus conferred on or intrusted to the royal burghs of Scotland, very ample illustrations will be found in the Local Reports. With comparatively few exceptions, its administration has been most unfortunate and even ruinous; and what was originally bestowed by the Crown, for public purposes, and inalienably devoted to the support of municipal establishments, has, in the greater number of cases, been lost by management the most reckless and shortsighted. Prior to the beginning of the sixteenth century, there is no trace of any dilapidation of the property of burghs. If waste of any kind existed, it must have been confined to the annual produce of the common property; and the property itself would appear to have been sufficiently protected by the inalienable quality of the original gift. In the larger burghs, at least, the ordinary system of management was by leases of short endurance, sometimes from year to year, and not of more than five years. Leases for longer periods were considered as alienations, and as such were liable to challenge; and of this some instances are to be found in the judicial proceedings of the supreme civil courts, in the latter part of the fifteenth century. On this ground, for example, a lease of one of the salmon fisheries, belonging to the burgh of Aberdeen, granted for a period of 19 years, was reduced and set aside. Such attempts to violate the strict obligations under which burgal property was to be administered, appear, however, to have then been rare.

In tracing the origin and progress of a different system, in reference to burgh property, it is easy to perceive that it was very similar to what had begun to prevail in the management of the property of the Crown and of the Church; which, being also strictly inalienable, could not be made further available to the wants of the immediate holders but by an increase of its annual produce. As the accomplishment of this object, by any real improvement in the productive powers of the soil, was not then contemplated as a possible event, the more obvious expedient was resorted to of obtaining an increase of rental, in return for a more secure and permanent title of possession; and, for that purpose, the plan of converting temporary leases into perpetual and real rights of feu-farm tenure, in return for a feu-duty exceeding the amount of an ordinary rent, very readily presented itself. Neither in the case of ecclesiastical property, holden in mortmain, nor in that of burgage property, would this have been considered as a legitimate exercise of the powers of administration; but the immediate acquisition of an increased revenue, unaccompanied, as it should seem, with any suspicions of its permanent value, appears to have been regarded as a sufficient reason for granting to royal burghs the power of dealing with their common property much in the same manner as, for reasons no better founded, the Crown had already begun to administer its own.

Among the royal burghs of Scotland, Edinburgh appears to have taken the lead in the adoption of this ill-omened system; and, in the year 1508, the governors of the city had influence enough to obtain from the Crown a general licence of improving and augmenting the burgal revenue, by disposing of their common property in feu-farm and heritage,—"pro feodifirma dicto burgo nostro *in augmentationem communis redditus* ejusdem annuatim inde reddenda." It was, at the same time, carefully provided by the charter, that such alienations of the burgal lands should not be held to infer any *recognition* or feudal forfeiture of the rights of the burgh, in respect that the royal consent, thus declared, had been conceded for the public good;—"pro edificiis et polecia desuper conficiendis." This unfortunate example the other burghs of Scotland were not slow in following. Special grants or licences of subinfeudation were obtained by some; and, emboldened by such precedents, the magistrates of other burghs would appear to have at last acted on the supposition that the former restraints of the common law were relaxed, if not entirely abrogated, and that the alienation in feu-farm of the common property of burghs royal had become a part of their ordinary administration.

Even if the stipulated feu-duties, under such transactions, had consisted of some commodity of a permanent value, the result must have proved injurious to the interests of the burghs; but the mischief was, in most cases, prodigiously increased by accepting a certain return in the current money of the kingdom; and by the mere depreciation in the value of that currency, independently of all increase in the real

* See Appendix No. III. to Report on Dundee.

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value of the property, the rents reserved to the burghs have gradually become little more than nominal. Of the disastrous consequences of this mode of administration but too many illustrations will be found in the Reports on the several burghs royal of Scotland, aggravated by the consideration that in most cases the evil is no longer remediable.

Among the sources of direct revenue belonging originally to the Crown, and afterwards conferred on burghs royal, as a part of what is usually termed *the common good*, have been already mentioned the issues of the courts of the burgh, (*exitus curiarum;*) and in addition to these, and to the common lands and burgh maills, (*census burgales,*) another remains to be mentioned, which, though not originally of equal value, has fortunately not been exposed to the same hazards of diminution and decay. Upon inland traffic of all sorts, however trifling in its amount, there existed, from a very early period, a system of petty exactions in all burghs holden immediately of the Crown, from which there was derived a revenue to the royal treasury, although probably not very much exceeding the cost of its collection. In every market and fair, and within the liberties of every burgh, a most rigid system of vigilance was maintained by the officers of the Crown, to prevent the untaxed transfer of even the most common commodities; and, upon a scale of value more or less fictitious and imaginary, there was attached to the sale of the most common articles of daily consumption a certain customary payment or imposition.

How long these *petty customs* (*minutæ custumæ*) continued in any case to be levied exclusively for the benefit of the Crown does not appear; but it affords some criterion of their value, that the right of exacting them appears to have been among the earliest boons conferred on their own burghs by the Kings of Scotland. Under the immediate management and control of the burgal magistrates the original system of vigilance and restraint does not appear to have been relaxed; the whole business of common life, in the transfer of goods from hand to hand, was subjected to the most jealous and searching regulation; and cramped, as it must have been, in all its motions and directions, it seems difficult, at the present day, even to imagine the possibility of maintaining a system so artificial and vexatious. As it has descended to the present times, its rigours have been in many ways greatly mitigated and subdued; but even in the present form, and to its present extent, the exaction of these petty customs cannot be defended on grounds of general expediency. Unhappily, however, as will appear in the sequel, it is among the various evils springing from the dilapidation of the other ordinary burgal revenues, that this unequal and inexpedient system of taxation could with difficulty be now dispensed with.

The direct grants of real property, and of revenue thus conferred on their own burghs by the Kings of Scotland, were the valuable considerations which justified the imposition, and were held to remunerate the discharge of those duties required of burgesses and burgal communities, both in maintaining an effective police within their own bounds, and in serving in the armies and arrays of the King, along with the other military tenants of the Crown. The latter service has long ceased to exist as a direct burden, and the more peaceful duties of watching and warding, as well as the other personal duties and burdens connected with the preservation of the public peace, have undergone many modifications, although in principle and modern practice they still retain their original force. But, independently of these grants of property and revenue, with the consequent and appropriate burdens, a still more characteristic quality of these municipal communities, conferred on them by their earliest charters, was the exclusive right of all trade, foreign and domestic. The terms of these royal grants to particular burghs are not essentially different, and vary from one another chiefly in the extent of their details. In some instances these are very minute; but perhaps a more accurate summary of them cannot be given than that contained in a general charter of confirmation of the privileges of burghs royal granted by David II., when this exclusive system had probably settled down into a regular and uniform course.—"Sciatis nos cum concilio concessisse dilectis nostris burgensibus Scotiæ, facultatem emendi ac vendendi liberam ubique infra libertatem suorum burgorum; prohibendo ne aliquis eorum infra limites libertatis alterius, emat vel vendat nisi licenciatus: prohibemus etiam ne episcopus aut prior vel persona ecclesiastica, comes, baro vel persona secularis, emat lanam, pelles, coria, aut alia mercimonia sub quocunque colore, cujuscunque fuerit status, neque vendat nisi solummodo a mercatoribus burgorum infra quorum libertatem resident: quibus precipimus quod legitima mercimonia presentent apud forum et crucem burgorum, ut mercatores emant et ipsis effectualiter proferant sine fraude, et ibidem sumant custumam Regis: prohibemus etiam ne aliqui exterranei mercatores cum navibus et mercandisis venientes, vendant aliquod genus

mercimoniorum nisi mercatoribus nostrorum burgorum, amittendæ sub pena Regiæ defensionis nostræ: quas quidem concessiones, libertates, constitutiones, pro perpetuo duraturas, tenore presentis cartæ nostræ confirmamus."*

The high value attached to these exclusive privileges of trade may, in some degree, be estimated by the extreme jealousy and care with which, from the earliest times, they were maintained and vindicated against all encroachments, and by the numberless confirmations and general regulations of which they were the subject. In the vast variety of laws and ordinances relative to the trade of burghs, as well as in the numberless discussions to be found in the judicial proceedings of the last three or four centuries, it would be no easy task to give a full historical view of their nature and operation. In general they may be regarded as of two classes, as flowing either from legislative authority, or from powers of internal regulation. Those of the former class are chiefly directed to the protection of burgal privileges against strangers and *unfreemen*, or against those towns and burghs on which the privileges of trade had not been conferred. Those of the latter class are more especially concerned in defining the peculiar rights of the different members of the same burgh, and in regulating and defining the rights of contiguous and rival burghs. The laws against strangers and unfreemen were originally simple, inasmuch as the exclusion of these classes was general and absolute, until, in more recent times, the ordinary exigencies of business and of common life gradually led to various, though not very important relaxations. The internal regulation of trade, and the adjustment of the claims and pretensions of rival burghs, appear to have been the subjects of frequent and anxious discussion, and may be said to have continued down to nearly the present times to attract much of the consideration of those more immediately interested.

In establishing burghs royal throughout all parts of the kingdom, it would seem to have been the general policy of the Government to subdivide the whole surface of the country into certain privileged districts, within each of which was situated a burgh, with exclusive privileges of trade over its whole bounds. The districts thus assigned to some of the more ancient burghs, when, of course, their number was comparatively small, are of an extent that contrasts almost ludicrously with the insignificant state into which they have ultimately fallen. Of this the very ancient burghs of Inverkeithing and Rutherglen are apt examples. The boundaries of the former extended over a country which now comprehends the more recent burghs of Kinross, Burntisland, Kinghorn, Kirkcaldy, and Dysart. Those of Rutherglen were not less considerable; and certainly comprehended the city of Glasgow, then an episcopal town or village of comparative insignificance. Other instances of a similar kind might easily be accumulated; but the fact is sufficiently notorious, and is here brought into notice, chiefly as shewing that the different burghs throughout Scotland were, in this manner, as it were, brought into immediate contact with each other, and thus formed into a connected whole.

By this local contiguity, as well as by the common nature of their rights and privileges, the royal burghs throughout the kingdom were drawn together into habits of mutual intercourse and consultation. From an early period assemblies were held, in which the Great Chamberlain of the kingdom presided, and was assisted, in the adjudication of disputed claims, by commissioners from four different burghs; and in which, also, general laws and regulations for the protection or proper conduct of trade were considered and enacted. These assemblies are well known in the history and law of Scotland, as the Court or Parliament of the Four Burghs; from these is supposed to have emanated the ancient code or capitulary, entitled, *Leges Burgorum Scotiæ;* and to this court appeals were made in questions of legal difficulty, arising out of the usages of burghs and the peculiar rights of burgesses.

Of the actual proceedings of this court but few instances remain on record; but as a proof of its reality, and of the nature of some of its functions, reference may here be made to the proceedings of a Parliament held at Newcastle by Edward I. in 1292,† in which, on the motion of both parties, in a private suit depending on the law and custom of burghs in Scotland, it was ordered that the Four Burghs should be consulted:—"Ideo consulendum est cum quatuor burgis contra proximum Parliamentum hic, Et tunc ad judicium:" And this having been done, judgment on the appeal was ultimately given accordingly,—"quia compertum est per recordum et veredictum quatuor burgorum quod lex et consuetudo talis est," &c. But their duties, in a judicial capacity, seem to have chiefly had reference to the trial of appeals from the judgments of the Great Chamberlain, as is clearly indicated by an order made in a

* Charter Room, City of Edinburgh. † See Rot. Parl. i. 107.

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Parliament held by David II. in 1368, in consequence of the detention of the towns of Berwick and Roxburgh by the English;—"quæ sunt et esse debent duo de quatuor burgis qui habent ex antiquo curiam facere Camerarii semel in anno apud Hadingtoun super judiciis, si quæ forent, coram ipso in itineribus suis ubicunque contradicta," &c.

A still more important function seems to have been gradually assumed by these burghs; and, either by themselves, or more probably with the aid and concurrence of the other burghs, they appear to have extended their deliberations to the more general matters of policy connected with the prosperity and welfare of Scottish merchandise. Thus, in a court of the four burghs held at Stirling in 1405, it is said to have been decreed "quod duo vel tres sufficientes de quolibet burgo domini Regis ex parte Australi aquæ de Spey sint quolibet anno secum commissionem habentes ad dictum Parliamentum quatuor burgorum ubicunque tenendum fuerit, ad tractandum ordinandum et determinandum super his omnibus quæ ad utilitatem reipublicæ burgorum universorum dicti domini nostri Regis et ad eorum libertates et curiam dignoscuntur pertinere."* Of the proceedings of these courts in matters of a more general kind, no remains have been preserved; but it may be presumed that their recognised powers and functions were not quite so large as the words of the preceding decree might seem to indicate; at the same time it does not greatly exceed the terms of a charter of later date, granted by James II. in 1454, giving to the burgh of Edinburgh the exclusive privilege of being the seat of the Parliament of four burghs, and in which its proper duties are defined to be, "ad subeundum ordinandum et finaliter determinandum de et super judiciis burgorum universalium regni nostri curiis dictis sive contradictis: Ac etiam mensuram ulnæ, firlotæ sive bollæ, lagenæ et petræ, more solito leigiis et communibus nostris, dandum liberandum et recipiendum; necnon omnia alia facienda et exercenda quæ in hujusmodi curia Parliamenti secundum leges, statuta et burgorum consuetudines sunt tractanda subeunda et finaliter determinanda."† This Court of the Four Burghs, as is well known, was finally merged in the Convention of Royal Burghs—an institution to be noticed in the sequel.

The preceding observations and details, as to the more ancient and analogous institutions, have been here introduced chiefly in the view of indicating the nature of those exclusive privileges of trade which constituted the main criterion of burghs royal, and the high importance attached to them both by the possessors and by the Scottish legislature. These privileges, however, were not conferred as a gratuitous and unrequited gift, but, agreeably to the general policy of the age, were made the ground and justification of severe exactions. According to the feudal usages of Scotland, as well as of the other countries of Europe, both the secular or military and the ecclesiastical tenants of the Crown, were held to be liable to taxation, either for the more general purposes of the State, or for some of the peculiar exigencies of the reigning sovereign; while the other orders of the people, although indirectly and substantially, were yet not directly and avowedly liable to such impositions. But the creation of mercantile communities, with exclusive and valuable privileges, calculated to give them important and lucrative advantages over the other orders of the State, very naturally led to their being included in the class of those subjected to direct taxation. In the absence of authentic records, it would be difficult to ascertain at what period this liability to general taxation was first imposed on the burghs royal of Scotland; but of this we may be assured that, it was coeval with, and probably anterior to, their first appearance in Parliament as a third estate of the realm. Of this addition to their political rank there are some ambiguous indications, but no certain proofs, prior to the end of the thirteenth century; but that they remained so long exempted from any share of the general burdens of the State seems improbable; and it may be presumed that, through the intervention of those burgal courts or assemblies above referred to, or in some analogous way, the royal burgesses of Scotland were induced, if not compelled, to contribute to the extraordinary demands of the royal treasury. Early in the fourteenth century, and before the termination of the reign of Robert Bruce, their appearance in Parliament is distinctly marked; and, from that period downwards, it may be considered as certain that no assembly of the estates of the realm was held competent to impose any taxation on the royal burghs of the kingdom, to which their representatives had not been summoned as an integral part of the legislature.

But, although their presence in Parliament may have been held necessary to the effectual imposition of any general tax on the burghs of Scotland, it does not appear

* See Skene, Vet. Leg. Scot. fo. v. 153.

† Charter Room of the City of Edinburgh.

that their influence in the councils of the State was of any considerable weight till a much later period; and it is a remarkable circumstance, when contrasted with the parliamentary proceedings of the latter part of the fifteenth and of the sixteenth centuries, that matters peculiarly affecting this third estate of the realm seem to have attracted comparatively little notice. In the reign of James I. there may be traced some interesting indications of the rising importance of that class of burgesses, consisting of artisans, who were previously regarded as the least considerable, and whose tendencies to factious combination had begun to alarm the more predominant class of merchant burgesses, with whom the political influence of the third estate appears to have mainly rested.

It has been already noticed that, even before the end of the thirteenth century, the formation of partial confraternities and guilds appears to have been earnestly deprecated by the higher and more opulent class of burgesses who constituted the Merchant Guilds; and who, as such, must have been the ruling party in all considerable towns. This prevailing influence of the merchants in the government of the burghs may have relieved them from the necessity or the temptation of separating themselves, in the administration of burgal affairs, from the common councils of the whole burgesses; while, on the other hand, the want of this prevailing influence must have excited the jealousy of the class of artisans who were rising to wealth and importance, and may have prompted them to form combinations similar to those which had then become so formidable in those parts of Europe with which Scotland had the most intimate connexion. It is in this view only that any obvious explanation can be afforded of some of the proceedings in Parliament in the earlier part of the fifteenth century. Soon after the return of King James I., in 1424, an Act had been passed, avowedly for the purpose of checking the frauds of "untrue men of crafts," ordaining that in every town of the realm, "of ilk sindry craft usyt tharin, thar be chosyn a wise man of thar craft, be the layff of that craft, and be the counsel of the officiaris of the towne, the quhilk sall be haldyn Dekyn or Maister man owre the layff, for the tyme till hym assignyt, till assay and govern all werkis that beis made be the werkmen of his craft, sua that the Kingis lieges be nocht defraudyt and scathyt in tyme to cum, as thai have bene in tyme bygane, through untrew men of craftis."*

Under the colour afforded by this ordinance, the artisans, or "men of craft," appear to have found a pretext for assembling and combining in a manner that gave alarm to the other great class of burgesses, if not also to the other estates of the kingdom; and, within little more than a year after its date, the Act was repealed, and the conduct of the craftsmen stigmatized as dangerous to the public safety: "Quia ordinaciones facte in parliamentis precedentibus, super artificiorum Decanis in burgis regni, tendebant ad noxam, et commune tocius regni dispendium, Rex, ex trium Regni statuum deliberacione, ipsas ordinaciones revocavit, et illas totaliter adnullavit; inhibendo de cetero ne tales Decani, in aliquibus regni burgis, inter artifices eligantur; nec etiam alias electi ulterius exerceant officia Decanorum, nec faciant suas congregaciones consuetas, que conspiraciones sapere presumuntur."†

The jealousy here expressed of the rising importance and influence of what may be justly enough described as the lower order of the inhabitants of towns, was by no means accidental or momentary, but continued, down to a comparatively recent period, to affect the proceedings of the legislature, and to retard the final settlement of the different orders of the burgal population into that state in which they have now existed for nearly two hundred years. Of this progress, some of the details will appear with more propriety in the sequel; and it may be enough here to add, that having been the growth of a much later period than the formation of merchant guilds, or the erection of burghs royal, the incorporation of the artisans was in general much more artificial and definite than either of the former.

On the early constitution of burgal magistracies no very clear or steady light can be derived from the older muniments. It may, however, be very safely inferred, from the views already suggested as to the origin of burghs royal, that the powers of internal government and regulation were at first committed to persons immediately nominated by the Crown; and, indeed, the name of bailies (*ballivi*) by which they were universally known, sufficiently indicates their original function, as stewards of the revenue collected for the use of the Crown; with which appears to have been associated that petty jurisdiction which was necessary for maintaining the ordinary police of the burgh.

* March 12, 1424, c. 17. Acts of the Parl. of Scotland, vol. ii. p. 8.

† July 11, 1427, c. 4. Acta Parl. Scot., ii. p. 14.

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At what period the inhabitants of royal burghs were emancipated, so far as to have any share in the choice of their own rulers, can be matter only of conjecture. If the capitulary, known under the title of "Leges Burgorum," could be relied on as of uniform authenticity, and of the date usually assigned to it, the question might be easily solved; as, in that compilation, there is the following announcement of the general law and practice, as given in the most ancient copies now extant: "Ad primum placitum post festum Sancti Michaelis eligendi sunt prepositi, communi consilio proborum hominum villæ qui sunt fideles et bonæ famæ. Et jurent fidelitatem domino Regi et hominibus villæ. Et jurent fideliter conservare consuetudines villæ, et quod facient justiciam cuilibet, nec parcet alicui de justicia propter iram odium timorem vel amorem alicujus, sed per constitutionem consilium et judicium proborum hominum villæ, justiciæ complementum omnino facient."* That this was a recognised part of the constitution of burghs royal in the fourteenth century is sufficiently established by the manuscripts of that age; and the probability seems to be, that this important step in their progress towards independence must have been prior to the period when their consent to the grant of general aids and impositions began to be deemed necessary, and when they were received into the legislature as one of the estates of the realm.

Who the electors of magistrates truly were—the "probi homines villæ, fideles et bonæ famæ"—has been made a subject of controversy; but, as it cannot be imagined that a right or franchise of this nature could possibly depend on any other than plain and tangible criteria, there seems to be no good reason for supposing that the epithets in question had any other meaning or effect than as descriptive of the class of proper burgesses, in contradistinction to the unprivileged inhabitants of the district. Such, accordingly, appears to be the import of the oldest record of a burgh election now extant, that of Aberdeen, for the year 1398:—"Die lunæ proximo post festum beati Michaelis archangeli, anno domini millesimo tricentesimo nonagesimo octavo. Quo die Willelmus de Camera pater, cum consensu et assensu totius communitatis dicti burgi electus est in officium Aldermanni, et Robertus filius David Simon de Benyn Johannes Scherar ac Magister Willielmus Dicson electi sunt in officium ballivorum." To the term, "the whole community," here used, no other sense can well be assigned than that of the entire body of regular burgesses; any other interpretation would seem to be entirely arbitrary.

Among the "Leges Burgorum," it is remarkable that nothing distinctly appears as to the early existence or election of that more numerous body, known in burghs by the name of the council. But in another compilation, entitled "Statuta Gildæ," avowedly framed, in the first instance, for the town of Berwick, it is clearly laid down that, besides the alderman and four bailies, there shall be, for the government of its affairs, twenty-four "probi homines de melioribus et discretioribus et fide dignioribus ejusdem burgi ad hoc electi;"† and on this body is conferred a power of declaring who shall be the magistrates, in the event of any controversy as to their election by the community; a practice which may perhaps be considered as having laid the foundation of a much more extensive assumption of power by burgh councils at an after period.

How far the forms of popular election continued to prevail in the different burghs of Scotland, or under what varieties of modification, it is now impossible to trace. In the well known Statute of King James III.,‡ which is held to have subverted the original system of election by the community, the main existing grievance is stated to have been the continuance of the same magistrates beyond the proper term of one year, contrary to the old burgh laws; and to this violation of their rights seems to be imputed the "gret truble and contensione yeirly for the chesing of the samyn, throw multitud and clamor of commonis simpil personis." For an evil of this description, the remedy adopted by the legislature was certainly of a singular nature. "It is thocht expedient that nain officiaris na consail be continuit, eftir the Kingis Lawis of Burowis, forther than a yeir; And that the chesing of the new officiaris be in this wise; that is to say, that the Aulde Counsail of the Toune sall cheise the New Counsail in sic nowmyr as accordis to the Toune; and the New Counsail and the Aulde of the yeir befor sall cheise all officiaris pertenyng to the Toune, as Alderman, Bailyis, Dene of Gild and utheris officiaris, And that ilka craft sall cheise a persone of the samyn craft, that sall have voce in the said electioune of the officiaris for that tyme; in like wise yeir be yeir."

* See also Leges Burgorum, apud Skene, c. 77. † Stat. Gildæ, cap. 33, apud Skene, fo. 159.
‡ Act. Parl. Scot. 1469, c. 5,—vol. ii. p. 95.

That the system thus prescribed by Parliament was a direct violation of the existing constitution of burghs, there can be no serious doubt. At the same time it seems probable that, prior to its date, there may have prevailed very considerable diversities in the practice of different burghs, and that in some there may have been an undue assumption of power by the more opulent classes or individuals of the community. In like manner, after the date of this Act, the simple and uniform plan of election which it established was by no means universally adopted; and, from local influences which it would be vain to attempt to trace, the constitutions of burghs royal, or their setts, as technically denominated, came to exhibit an endless variety in their details, although agreeing, with scarcely any exception, in their leading principle of what has been usually termed self-election, to the exclusion of any near approach to popular suffrage. Into their various peculiarities it would be unprofitable to enter, as the whole of the system has now been completely done away; but in this brief historical review it may be fit to state that the setts of burghs have been the subject of much controversy and discussion in the courts of law; and that in their adjustment a sort of paramount authority was formerly assumed, and frequently exercised, by that assembly which has been already alluded to, as succeeding to some of the functions of the ancient Court or Parliament of the Four Burghs.

As the general convention of the royal burghs continues in subsistence at the present day, it may be proper to take notice, very cursorily, of the powers which it still assumes, and in the exercise of which it has been countenanced by legislative as well as judicial authority. Since the middle of the sixteenth century, this assembly of representatives from all the burghs of the kingdom has been annually held, and its proceedings have been conducted with much regularity. As a deliberative body, its attention has been frequently directed to the state of national commerce and manufacture; and, where the measures which have been deemed expedient have exceeded the limits of that power of more minute regulation which it has often assumed, the convention has been frequently instrumental in obtaining Acts of Parliament for the promotion of the objects in view. In questions and controversies between different burghs, it has frequently exercised a sort of judicial authority, or power of arbitration; and in the administration of particular burghs, besides adjusting the forms and modes of electing their magistrates and councils, it has been not unfrequently appealed to for the purpose either of checking or of affording its sanction to those Acts which have proved fatal to the original endowments of so many of them. As an executive body, its primary function has been to apportion their respective shares of the general land-tax or cess, of which one sixth part is imposed on the "estate of burghs," but from a small portion of which they have been relieved by towns of an inferior class, to which the exclusive privileges of trade have been communicated. And, lastly, the convention has long exercised the power of imposing additional taxes on the burghs royal, for the purpose of aiding the smaller or more indigent of the class in the erection of harbours, and other public works for the promotion of their commercial prosperity.

Referring generally to the evidence which has been collected as to the constitution and proceedings of the general convention of burghs,* it may be enough here to state that, among the larger burghs, its continuance seems to be thought by no means desirable; that the poorer class do certainly derive occasional support from those contributions, which, by the number of votes they can command, they are enabled to extort from their more opulent neighbours; but that, on the whole, the maintenance of this body, at the present day, appears to be, to say the least of it, of very questionable expediency.

Having said so much on the earlier history of that great class of burghs to which this Report more especially relates, it will not be necessary to enter into much additional explanation of the origin and constitution of those other classes of burghs, whose present state has been likewise pointed out for inquiry and consideration.

As the towns or villages which belonged in demesne to the Crown were naturally the first to share the favour of the sovereign, and to acquire a corporate existence, it may be presumed that those towns or villages which were the property of individuals, and which had grown up into some degree of importance under

* See Appendix.

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the protection of their immediate overlords, would follow at a considerable distance in the acquisition of similar advantages. Such, however, was the overpowering influence of the great baronial families, that even from an early period they appear to have been able to extort from the Kings of Scotland the privilege of incorporating the inhabitants of their own towns into burgal communities, and of imposing and collecting, either for their own use or for the use of such communities, tolls and customs within their own limits, similar in kind to those established in burghs royal. Coeval with these, or rather, perhaps, of even an earlier date, were some of the grants of burghs, which the piety of the sovereign impelled him to lavish on the spiritual lords of the kingdom, and under which some of them have grown up into great distinction. In the far greater number of the earlier charters to lords, both spiritual and temporal, the power of erecting particular towns or villages into burghs is conceived in general terms, leaving it to the grantees to exercise that power in such manner, or at such time, as they might think fit; in others more minute and specific powers are conferred, of appointing burgal magistrates and officers, and of appropriating the burgal revenues to the use of the overlord. But, independently of any such specification, it was evidently the right of the overlord to model his subaltern community according to his own pleasure, and to bestow on it such a share of independence, if any, as his own will might dictate. The varieties, in this respect, have accordingly been very great; the superior, in some cases, retaining the appointment of burgh officers entirely in his own hands; in others, conferring on the inhabitants the right of electing their own rulers; but, in general, retaining over them a power of control which left to them, at best, a very precarious independence.

In very few, certainly, if in any, of the early grants of the kind now spoken of, is there to be found any communication of that higher privilege of trade which belonged to the King's own burghs, and which, indeed, constituted their peculiar characteristic. But this, also, became an object of ambition; and charters were obtained from the Crown, raising those burghs of barony into the condition of *free burghs;* admitting them to the rights of trade, both foreign and internal; but at the same time, though without affecting their feudal tenure under their own superiors, subjecting them to the same class of public burdens and taxation which burghs royal had to sustain as the price of their peculiar privileges.

A further step yet remained, in the encroachments of the spiritual and temporal lords on the prerogatives of the Crown. One of the greatest objects of their ambition, as well as the most dangerous, was the possession of exclusive criminal jurisdiction within their own territories; and in this also the predominant influence of the clergy seems to have induced and enabled them to lead the way. The extent to which these grants of *regality* were carried, was such as to cover no inconsiderable portion of the whole territory of the kingdom; and when contrasted with what retained the name of *royalty*, may be justly regarded as having stripped the Crown of the better half of its highest prerogative. In every regality a certain head burgh was appointed by the grant; and although, in this way, no alteration was made on the feudal state of the inhabitants or of the burgal territory, the higher jurisdiction thus conferred on the overlord and his subordinate officers very naturally led to the common distinction of burghs of regality and of barony.

That distinction has ceased to be of any importance since the abolition of all heritable jurisdictions by the Act of 20 Geo. II. c. 43; but under the operation of that Act, another distinction was created between those burghs on which a municipal constitution had been conferred, either by their original overlords or by grants from the Crown, and those which, at the date of the Act, continued to be dependent on their respective lords of regality or barony. To the former the jurisdiction and privileges, then competent to them by law, were preserved, with the exception of the power of *repledging* from the courts of the King; whereas from the latter was taken away all "jurisdiction in criminal causes other than assaults, batteries, and smaller crimes, for which the punishment to be inflicted should only be by a fine not exceeding twenty shillings sterling, or by setting the delinquent in the stocks for any time not exceeding three hours in the day time;" and in ordinary civil causes of debt or damage, their powers of judging were limited to sums not exceeding forty shillings.

In concluding these introductory observations on the origin and ancient state of burghs, it may be proper to bear in mind that their only object has been to facilitate and abridge the explanation of those practical matters to which our consideration has been specially directed; and that to have aimed at any full discussion of the subject must have implied an extent of research and illustration which would have been here out of place.

I.

PROPERTY, REVENUE, DEBTS, AND ADMINISTRATION.

I. ANCIENT AND EXISTING LAWS.

FROM the preceding general view of the origin and establishment of burghs royal in Scotland, it has been seen, that independently altogether of the separate portions of territory, tenements or *tofts*, that were assigned to, or acquired by, individual burgesses, and which were held by each burgess as an immediate vassal of the Crown, there was usually bestowed on them, as a community, or aggregate mass, either by their original charters, or by subsequent grants, an additional territory beyond the immediate and narrow bounds of the inhabited burgh; and which might either be possessed in common, or otherwise administered, as was deemed most expedient. In return for the former class of separate and private properties, each burgess was bound to pay to the Crown a certain fixed rent or *maill*, and was further liable to the still more onerous obligation of performing certain personal services, in peace and in war, both within burgh and in the host of the King. On the other hand, for the common or public property of the burgh, the *res universitatis*, no separate rent or *maill* was exacted by the Crown. It was regarded as a part of that consideration or equivalent, by which, as a community, they were enabled to discharge those public duties and obligations to which they were subjected. What those duties and obligations were, is not the immediate subject of inquiry; and it is sufficient here to state, that in reference to those public objects which it was the primary and main purpose of such municipal establishments to effect, this common property was truly an estate held in trust by the community; in the administration of which they were bound to regard not merely the rights and claims of the individual members, but still more the future and regular charge of those public duties, and the permanent maintenance of those municipal establishments for which, in part at least, this trust estate was created.

In thus stating, that in part at least, the common property of burghs was bestowed as a consideration for the onerous liabilities with which it was held to be accompanied, we allude to those other means of a quite different nature, which were plainly, and, perhaps, still more unequivocally, destined for the same purpose. At present, it may be enough to state, in general, that these consisted, in the first place, of those exclusive and lucrative privileges of traffic and manufacture which burgesses alone were permitted to enjoy; and, in the second place, of that right of exacting tolls and customs on internal trade and merchandize, which by all the earlier charters was transferred from the Crown to the community. With respect to the former, which must be considered under another head of our Report, it is enough to add, in this place, that such exclusive privileges were regarded as peculiarly the consideration, in respect of which, the royal burghs of Scotland, as one of the separate estates of the realm, were subjected to a definite portion of the public burdens of the kingdom. With respect to the latter, the case was different; and from the time that a right to exact tolls and customs was first bestowed, more or less extensively, on burghs royal, it appears to have been regarded as an integral part of that estate in trust, or, as usually denominated, that common good, which the community and its magistrates were bound to administer, with a view to the regular discharge of their public duties, and the permanent and effectual maintenance of their municipal establishment.

Accordingly, from the earliest period of either legal or burgal record, it clearly appears that the administration of the affairs of burghs royal was not intrusted to their own discretion, but was placed under the immediate superintendence and control of one of the highest officers of the state. At their first establishment, a certain revenue was derived to the royal treasury from the King's burghs, arising partly from the rents of real property, partly from tolls and customs, and partly also from the fines, *amerciaments* and issues levied in the burgal courts of justice. For all of these, the magistrates and other officers of burghs accounted periodically to the Great Chamberlain, as the general collector of the public revenues of the kingdom; and to this, his proper official duty, appears to have been annexed, from a very early period, the task of inquiring into the administration of the common

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property and revenues intrusted to the communities of burghs, as well as into those matters, more strictly of a judicial nature, which concerned the rights and interests of the inhabitants. For this purpose, itinerary courts were held in the different burghs by the Great Chamberlain, or his deputies, in which the conduct of magistrates and public officers in the administration of burgal affairs, as well as that of the various classes of merchants and tradesmen, were subjected to a severe and searching scrutiny. Of the records of these proceedings, in early times, very few vestiges have been preserved; but of their general course, and the particular objects of the Chamberlain's official inquiries, a very sufficient idea may be derived from the judicial treatises of the fourteenth and fifteenth centuries. In one of the oldest manuscripts of that sort, compiled in the reign of David II., there is a tract "De articulis inquirendis in Burgo in Itinere Camerarii secundum usum Scotiæ;" corresponding in its contents, very nearly, with a chapter of the "*Iter Camerarii*;"* a work supposed to be of the age of James III., but the materials of which may be fairly regarded as, for the most part, of a much earlier period. The points of inquiry into burgal administration are numerous and minute; and among these, the management and application of the common good of burghs are of course very specially referred to. In an age when the direct alienation of feudal property was completely illegal, without the express consent of the overlord, and when even leases, exceeding a very limited period, were invalid, there was little hazard of any malversation of that grosser kind; but within the range of such discretion as might be exercised by burghs and their officers, as immediate vassals of the Crown, the superintendence and control of the Great Chamberlain appears to have been very complete. Against the alienation of burgal property, the only precaution to be found in the document above referred to, is directed against those grants in favour of churchmen which were then so frequent, and to which the tendencies were probably regarded as peculiarly dangerous: and in the catalogue of *Inquirenda* there is accordingly one article, and only one of the kind, "*De terris alienatis ad manum mortuam sine licentiâ Regis.*" Direct alienations of any other sort were not contemplated as even possible; but in reference to the usual modes of managing the common property of burghs, there are various articles of inquiry, and the following among others: "Si de communibus profectibus burgi assedatis, legalis fiat assedatio et levatio: et si de eisdem fidelé computum communitati burgi reddatur. Et si ita non sit, per quem et in quorum manus devenerunt, et si commoda transeunt in negotiis communitatis." And even in this least hazardous mode of management by leasing, various precautions against abuses were taken, among which may be reckoned this inquiry, "si quis ballivus in assedatione profectuum domini Regis fuerit particeps captionis;" that is, was himself a sharer in the benefits of the lease.

So long as the office of the Great Chamberlain continued in its original vigour, his powerful control would seem to have been effectual for the repression of abuses in this department. But in the reign of King James I., the functions of that ancient officer of state, as a public accountant, were superseded by the institution of the office of high treasurer; and although his powers of control over burgal administration were not withdrawn, their efficiency appears to have been gradually deadened, and ultimately reduced into absolute insignificance. Before the end of the fifteenth century, the relaxation of the former system of vigilance and control began to exhibit its natural consequences, and almost for the first time, during several centuries, to impose on the legislature the duty of frequent interference and regulation. In the Parliament of 1491, an Act was passed, in which, while it recognises the jurisdiction of the Chamberlain, it was thought necessary to "statute and ordaine, that the commoun gud of all our soverane lordis burrowis, within the realme, be observit and kepit to the commoun gude of the toun, and to be spendit in commoun and necessare thingis of the burgh, be the avise of the consale of the toun for the tyme, and dekkynis of craftis quare thai ar. And inquisitioun to be takin yerely in the Chaumerlane airis of the expensis and dispositioun of the same. And attour that the rentis of burrowis, as landis, fishingis, fermes, myllis, and utheris yerely revenuis, be nocht set bot for thre yeris allenerly. And gif ony hapinis to be set utherwayis, that thai be of nane avale, force, nor effect, in ony tymes to cum."† Under this general denomination of "the rents of burghs," are evidently included all the sources of a regular revenue, comprising not only real property, but also those more casual means of income derived from tolls and customs levied within burgh.

* Iter Camerarii, c. 39. Apud Skene, fo. 169. † Act. Parl. Scot., 1491, c. 19, vol. ii. p. 227.

A parliamentary declaration of this general nature, expressing little more than what had always been the common law and regular practice of burghs, could not be of much avail to check any growing tendency to abuse in the administration of burgal property; and the unfortunate device which began soon afterwards to prevail in the administration of the annexed (or unalienable) property of the Crown, by which permanent tenures in feu-farm might be substituted in place of short leases, could not fail to accelerate any former course of mismanagement in burgal affairs. The Acts of the Parliament of 1503,* which, as a measure supposed to be of wise policy, sanctioned this new system, not only in the management of Crown property, but also in that of "everilk lord baron and frehaldar quhatsumevir spirituale and temporale," at least during the life of the King, did not indeed confer any similar power or privilege on burghs royal; but it is not to be wondered at, that its adoption was eagerly sought for by those whose interests were, comparatively, of a temporary kind, and who could so easily turn it to their own personal advantage or aggrandizement. The true nature of burgal property was, however, so widely different from that of private individuals, that its omission in the Act of Parliament may be easily accounted for; nor does it appear that any legislative sanction of the practice of *feuing* such property was ever aimed at. But another expedient was speedily resorted to, which, in those cases where the burgal rulers were possessed of much political influence, proved but too easily successful; and, by means of particular licences from the King, passed under the great seal of the kingdom, the magistrates of Edinburgh, of Aberdeen, and of several other burghs royal, proceeded, on an extensive scale, to convert their common property, hitherto let under short leases, into heritable estates to be holden in feu-farm, in return for what was destined soon to become little more than a nominal quit-rent. From this period, therefore, may be dated the commencement of that system of maladministration which, with greater or less rapidity, has ultimately tended to the destruction of the far greater portion of the common good of burghs royal. PROPERTY, &c.

The rapid progress of mismanagement may be traced in an Act of Parliament of James V. in the year 1535, referring not only to the existence of the abuse, but to one of the immediate causes of its increase, by the intrusion of persons into the councils of burghs who were neither resident nor concerned in trade. It proceeds on the following preamble: "Because all our soverane lordis burrowis are putt to povertie, waistit and distroyit in thair gudis and polecy, and almaist ruynous throw falt of using of merchandice, and that throw being of outlandismen, provest, baillies, and aldermen within burgh, for thare awine perticular wele in consuming of the commoun gudis of burrowis, granted to thame be our soverane lord and his predecessouris kingis of Scotland for the uphald of honestie and polecy within burgh." After providing against the election into the magistracy of any other burgesses than "merchants and indwellers," it directs a mode of accounting in Exchequer, in place of that which had at former periods been conducted before the Great Chamberlain, and which indeed had been probably laid aside and superseded before the date of this Act. It enacts, "that all provestis, ballies, and aldermen of burrowis bring yerelie to the Chekker at the day sett for giving of thare comptis, thare compt bukis of thare commoun gudis, to be sene and considerit be the lordis auditouris gif the samin be spendit for the commoun wele of the burgh or nocht, undir the painis forsaidis [contenit in the actis and statutes maid thairupoun of befor]; and that the saidis provestis, ballies, and aldermen of every burgh warne yerelie xv dais befor thare cuming to the Chekker all thai quha likis to cum for examyng of the saidis comptis, that thai may argune and impugne the samin as thai plesis, sua that all murmour may ceiss in that behalf."†

To the tribunal thus constituted for the control of burgal administration and expenditure, one leading objection is obvious, that being stationary in the metropolis of the kingdom, and remote from most of the burghs whose affairs were to be investigated, it was very imperfectly calculated to supply the place of the itinerary Courts of the Chamberlain, in which those who were most nearly interested, could on the spot challenge the official conduct and proceedings of their rulers, and at once adduce the appropriate evidence of any alleged malversation. These local obstacles it must have required more than ordinary energy on the part of private individuals to have encountered, more especially as the Statute had omitted to confer on them a title to sue for and recover those penalties which were to follow

* Act. Parl. Scot., 1503, c. 36, 37,—vol. ii. p. 253.
† Act. Parl. Scot., 1535, c. 35,—vol. ii. p. 349.

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on conviction. In the absence of such private challenge, but little effectual control was to be hoped for from the formal examination of the auditors of exchequer and their subordinate officers. The proper business of that court related to the collection of the revenues of the Crown; and as the small portion derived from the royal burghs had, in almost every instance, been converted into a fixed feu-farm rent, beyond the regular exaction of that rent the patrimonial interests of the Crown, in the due administration of the common good of burghs, had become a great deal too remote to ensure much gratuitous vigilance on the part of the auditors of the exchequer. From the existing fragments of their records during the latter half of the sixteenth, and the earlier part of the seventeenth centuries, it is fully ascertained, that, in compliance with the Statute, accounts from at least a great many burghs were rendered in exchequer; and that, in some of the burghs, these accounts had been previously subjected to the examination of auditors appointed by the community; but that private individuals, how much soever they might have been inclined to "murmour," did ever avail themselves of the invitation in the Statute to come to exchequer, "for the examining of the saidis comptis, and to argune and impugne the samin as they pleasit," there is not any trace of evidence. It may therefore be safely concluded, that this system of control must have been, from the first, inefficient; and that, although accounts were rendered with more or less punctuality and accuracy, it was rarely for any other purpose than to be quietly deposited in the archives of the Court.

Under this imperfect system of control, it cannot be thought surprising that the administration of burgal property and revenue was, in many cases, improvident, and pernicious to the ultimate welfare of the community. And, in addition to the other sources of abuse, it would appear, that, during the minority of James VI. and in the earlier years of his government, a practice had prevailed of granting commissions to certain favoured individuals, the precise import of which does not appear, but the effect of which evidently must have been, to enable them to get possession of the common property of burghs by private transactions, and for very inadequate returns to the community. For the correction of this very gross abuse, an Act was passed in the Parliament of 1593, which very impressively sets forth the necessity of legislative interference, and of the proposed remedy, in the following terms: "Oure soverane Lord understanding dyverse of the maist ancient burrowis within this realme to be graitlie decayit be want of traffique and sic uther helpis quhairby thay wer mentenit of befoir, having small commoun guid and patrimonie, nocht able to interteny the publict occasioun of his hienes service in Parliamentis, conventionis of burrowis and utheris necessair adois and assemblies intervening for the publict estait of the realme, farless to interteny the quiet and gude estait of the saidis burrowis in peace and weir: And nevertheles be procurement of particular personis affecting their privat commoditie and nawyis respecting the weill publict, the small patrimonie apertening to the burrowis hes bene convertit and desyrit to be convertit to particuler uses to the quhilk the same wes nevir convertit of befoir, makand thairby the inhabitantes of the saidis burrowis (quha ar becum alreddie depauperat) to be unhable ather for his hienes service, or to sustene the estait of the burgh, and that under pretext of certane pretendit commissionis purchest fra his hienes, with decreettis sentencis and ordinances interponit thairto: For remeid quhairof his hienes, with advice and consent of the estaitis of this present parliament, has decernit concludit and ordainit, and be thir presentis decernis concludis and ordanis, That the commoun guid and patrimonie of all burrowis within this realme salbe yeirlie bestowit at the sicht of the magistrates and counsell of the saidis burrowis, to the doing of the common effayres thairof allanerlie, efter the yeirlie rowping and setting thairof, as use is, conforme to his Majesties former actis and statutis made anent the employing of the commoun guid within the saidis burrowis; and that the samyn be na utherwise bestowit or convertit to quhatsumevir use, or alteration maid thairanent in haill or in part, nochtwithstanding of quhatsumevir commission charge or directioun given be his Majestie at ony tyme heirtofoir be procurement of particuler parties in the contrair: And nochtwithstanding quhatsumevir statute ordinance or decreit following or proceeding thairupoun Quhilkis commissionis charges decreittis and ordinances, with all that hes followit or may follow thaerupoun, his Majestie with avise foirsaid expresslie reducis retreittis and rescindis be thir presentis And ordanis publicatioun to be maid heirupoun to all and sindrie his hienes leigis, that nane of thame pretend ignorance, in forme as effeiris."*

* Act. Parl. Scot., 1593, c. 39,—vol. iv. p. 30.

Whatever may have been the effect of this Statute in checking the gross abuses against which it was particularly directed, it is certain, that under the imperfect and ill-regulated system of control to which we have adverted, the ordinary opportunities of mismanagement suffered no abatement. Applications to the Crown for special licences to alienate the real property of burghs, by grants in feu-farm, do not appear to have been frequent ; but the example of some of the great burghs was not lost on their less distinguished neighbours; and although the common law remained unaltered, and continued to prohibit any other mode of administration but under very short leases of three or five years, the unobserved and unchecked violations of the law in this respect, served to make great inroads on the solidity of this main basis of burgal establishments. Of the exercise of any active control on the part of the lords auditors of exchequer, their own records afford no evidence ; and the only symptoms of any semblance of control are to be found in the proceedings of the convention of burghs royal, whose proper functions and duties were of a very different kind, but who appear, very unwarrantably, to have assumed, at least in a few cases, the discretionary power of authorizing what the law regarded as alienations, in the granting both of long leases and of infeftments in feu-farm tenure. Of these interferences, however, the instances are not numerous ; and, without any such extraneous aid, the advances of the greater number of burghs towards a state of comparative impoverishment were but too rapid.

For more than half a century prior to the Restoration of Charles II., the public attention seems to have been but little attracted to the decaying state of the royal burghs of Scotland ; but, in the course of that reign, considerable alarm appears to have been excited by the probable inability of this third estate of the realm to sustain its proper share of the public burdens, either ordinary or occasional, to which it was liable. In that reign, the functions of the Lord High Treasurer, and of the ordinary Lords or Auditors of Exchequer, became intimately blended together in a manner which need not be here more particularly explained ; and in the Commission to the Treasurer, in the year 1682, he is specially instructed, along with the auditors, to examine the royal burghs, and call them to account for spending their common good. But the power thus conferred on him, appears to have been found inadequate to the extent of the evil ; and in 1684, (June 16,) a special commission was issued under the great seal, directing the lord high treasurer and the treasurer depute to summon all magistrates of burghs royal, and their representatives, from the period of the Restoration in 1660 ; to institute a strict accounting with them as to the application of the common good of burghs, during the preceding period of twenty-four years, and to make them personally liable to the burgh for all sums of money which should appear to have been unduly or profusely expended by them (*indebite et profuse impensas.*) In the preamble of this commission, after reciting the Act of King James IV. in 1491, and that of King James VI. in 1593, the urgent necessity of this extraordinary measure is set forth in the following terms :—" Nos intelligentes quod in pluribus regalibus nostris burgis, bonum publicum, redditus et patrimonium, a magistratibus pro tempore, aut profuse dilapidantur aut privatim decoquuntur, et plerumque in fines et usus prorsus quam per leges applicari ordinantur, aut quam per benignas donationes nostras, nostrorumve illustrissimorum progenitorum destinata et allocata fuere, applicantur ; Speciatim vero quod regalia nostra burga, absque ulla necessitate, debita contrahunt, et postquam donationes et concessiones a nobis nostrisque predecessoribus, ad debita illa persolvenda omnino sufficientes, obtinuere, et postquam ex civium consensu, onera ad dicta debita persolvenda sunt imposita, nichilominus eadem debita majori ex parte, in plurimis nostris burgis, insoluta remanent, atque redditus, emolumenta et proficua a publico bono burgi, amplissimis et benignis nostris donationibus, et civium liberis suffragiis et consensu exsurgentia, magnopere consumuntur et indebitè applicantur ; unde non solum murmura et querimoniæ quamplurimæ in burgis oriuntur, verum etiam illi qui magis suo lucro et emolumento privato, quam burgi commodo, munerique et officio magistratus consulunt, factiones et divisiones in burgo movere inducuntur, ut seipsos ad officium magistratus eligi procurent, utque ipsi eorumque amici, propinqui et clientes in dicto officio continuentur, ut inde occasionem habeant bonum publicum redditusque burgi consumendi in prœmiis ad amicos suos, et burgi factiones continuandas ; Qui, vero, si strictè rationem reddere cogerentur de bono publico, redditibus et patrimonio burgi, et ut eadem necessario et utiliter applicata fuere in communibus burgi commodis et negotiis probare tenerentur, proque dilapidatis indebiteque applicatis rationem reddere cogerentur, eaque burgo persolvere et rependere decernerentur, ac aliter, pro prava sua administra-

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tione, prout requirunt leges regni, mulctarentur et punirentur, prædicta illa mala maximopere prevenirentur, et mederentur, atque inde murmura, querimoniæ et contentiones pro officio magistratus restringerentur et sederentur, atque mercatores, opifices aliique cives dictorum burgorum, diligenter et quietè artes et vocationes suas prosequerentur, et burga nostra benè et pacificè gubernarentur."

That the picture here given of the corrupt administration of royal burghs is much exaggerated, there seems no sufficient reason for supposing; at the same time, in judging of its fidelity, it ought to be kept in mind, that at this period of most oppressive and tyrannous government in Scotland, the burghs, and their more popular rulers, were the objects of great distrust and apprehension; that their undoubted privileges in the election of magistrates and councils were, at the date of this royal commission, most grossly violated; and that, in the existing state of political ferment, this threatened investigation of burgal mismanagement for a quarter of a century seems much more calculated for the temporary purpose of intimidation, than for that of a sober and effectual discovery of real abuses. Certain it is, that no investigation of the kind here threatened appears even to have been commenced; and by the demise of the king, about six months after its date, the commission must have fallen, and was not again renewed.

Soon after the Revolution of 1688, public attention was again attracted to the decaying state of royal burghs. The inability of many of them to bear their former share of the burden of public taxations had become the subject of frequent complaint to the general convention of burghs; and, as already alluded to, the applications to that body, not only for direct relief from a part at least of the former proportion of such taxations, but to lend their countenance and authority to the alienation of the common good, in order to diminish the immediate pressure of their debts, had become very frequent. Thus, in 1691, the magistrates of Glasgow presented a supplication, stating "that of late the said burgh had become altogether incapable of subsistence, in regard of those heavy burdens that lie thereupon, occasioned by the vast sums that have been borrowed by the late magistrates, and the misapplying and dilapidation of the town's patrimony in suffering their debts to swell, and employing the common store for their own sinistrous ends and uses, wherein, if the petitioners should be express in the particular, it would exceedingly tend to the dishonour and disparagement of those whose duty it was to have been the patriots and supporters of the place." And the result of this application was the sale, at a low price, of one of the most valuable estates belonging to the city of Glasgow.

It was in this meeting of the convention of burghs, and probably in consequence of this particular application on the part of Glasgow, that a general measure was adopted for ascertaining the actual state of all the burghs royal of Scotland, by appointing a Commission consisting of certain distinguished individuals of their body, with instructions to obtain from the magistrates of each, an authentic statement of facts connected with the affairs of the burgh; and in particular, an accurate detail of the state of their common good or ordinary revenue, and of the debts and other burdens to which they were liable. The returns thus obtained, from nearly all the burghs, are recorded in the books of the convention; and although in many instances unsatisfactory, are on the whole so curious, as well as authentic, that we have deemed them deserving of a place in an Appendix to this Report.

This investigation does not appear to have been the groundwork of any direct proceeding on the part of the burghs; but it may probably have led to the introduction and passing of an Act in the Parliament of 1693, "anent the Common Good of Royal Burghs." The Act proceeds on a preamble, "that the Royall Burroughs of the Kingdome, erected and provided with their respective publick goods and revenues by their Majesties royall ancestors, are of late, through the male-administration of the magistrates and others, to whom the management of the said publick goods and revenues hath been committed, fallen under great debts and burthens, to the diminution of the dignity of the estate of burroughs, and the disabling them to serve the Crowne and Government as they ought; and that the care, oversight, and controll of the said publick goods and revenues, and of the administration thereof, doth undoubtedly belong to their Majesties, by virtue of their prerogative royall;" and, upon this narrative, which is certainly in complete accordance with the true constitutional doctrine as to the nature of burgal endowments, the Act proceeds to "declare, that alse well for what is past as in time comeing, their Majesties will give commissions one or more to such persons as they shall be pleased to nominate, to inquire into the condition and state of the common good and revenues whatsoever of all the royal burroughs, and how the samen hath been heretofore, or

shall be hereafter imployed or misimployed, and to call the malversers and misemployers to make accompt, and to ordaine and decerne them and every one of them to refound and repay or otherwayis repair the burrough or burroughs by them lesed, as the saids commissioners shall find them lyable:" and it is "declared, that the Acts and Sentences of the saids commissioners shall have the strength and effect of Acts and Sentences of the Court of Exchequer."*

This appointment of Extraordinary Commissioners had for its object the detection and correction of past abuses, though not, it may be presumed, with so distant a retrospect as the royal commission of 1684. In as far, however, as has been discovered, the efficiency of the two measures would seem to have been much alike; for although a commission, in terms of the Act, was issued in the following year, no vestiges of any proceedings under it have been discovered. With a view to future regulation and control, it was evidently not intended to disturb the ordinary jurisdiction of the Treasurer and Lords of Exchequer, in reference to which the same Statute contains the following provisions:

"And, for preventing the like abuses and misapplications in all time hereafter, their Majesties, with advice and consent foresaid, statute and ordaine that every burrough royall within this kingdom shall, betwixt and the first day of November next to come, bring the Lords of their Majesties Treasury and Exchequer an exact stated accompt, in charge and discharge, subscribed by the present magistrates and town-clerk, of their whole publick good and revenue, and of the whole debts, and burthens, and incumbrances that doe affect the samen:

"And farder, that it shall not be lawfull for hereafter to the magistrates and toun councill of any burgh royall to contract any debt, or give bond for the samen, obligeing them and their successors in office, without a previous Act made in the Toun councill, in their fullest convention, both of merchants and deacons of crafts, condescending upon the causes and uses for which the saids debts are contracted, and bonds granted; certifying the forsaids magistrates and others who shall contract debts, and grant bonds, without the said previous Act, or if the causes and uses condescended on in the said Act shall not be found to be just, true, and reall, that in any of the saids cases the saids contracters and subscribers shall be personally lyable, they and their heirs and successors, in their private fortunes, to relieve and disburthen the toun of the saids debts, and that by decreete of the lords of session, at the instance of any burgess of any of the saids burroughs, who hath borne the office of provest, baillie, or dean of gild within the samen; but prejudice always to the right and security of the party creditor, as likeways but prejudice to any private person's rights as to any of the saids burghs as accords."

Such continued to be the statute law of Scotland relative to the administration of burgal property and revenues down to a period comparatively recent. Of all its provisions, since the cessation of the itinerary Courts of the Great Chamberlain, it may be said, apparently with perfect truth, that they were practically inoperative, and, in their effects, even worse than useless. A certain judicial machinery was erected, having somewhat of an imposing appearance; but the means of putting it in motion, and maintaining it in a state of activity, were almost entirely wanting. The more obvious defects of the system of control which was substituted in place of that of the Great Chamberlain, by the Act of James V., in 1535, have been already alluded to; and it tends rather to increase than diminish the force of those remarks, to find that the barren formalities of the law appear to have been observed with considerable punctuality. In pursuance of precepts from the Lords of Exchequer, brieves are issued from Chancery, addressed to the provosts and bailies of royal burghs, of which the leading object is to command their attendance in Exchequer at a specified time, to account for and pay the burgh rents, duties, and casualties due to the Crown; but they are farther directed to bring for inspection the accounts of the common good, and to warn all those having interest, on fifteen days' notice, in terms of the Act of Parliament:—"Portantes vobiscum omnes denarios per vos nobis debitos quorum termini nunc sunt aut tunc erunt elapsi; et expensarum dispensationis computa communium bonorum dicti burgi, si utiliter impensa, vel diffusa et dissipata fuerunt, inspicienda; omnesque alios interesse habentes seu prætendentes, per quindecem dies ante dictum diem, acto nostri Parliamenti conformiter, inde præmoneatis."

Such is the tenour of the brieves addressed to the magistrates of royal burghs down to the present day; but beyond enforcing the payment to the Crown of cer-

* Act. Parl. Scot. 1693, c. 45. Vol. ix. p. 309.

PROPERTY, &c. tain trifling quit rents, falling very far short of the expense of collection, the results appear to have been always very unimportant to the real welfare of burghs. In compliance with these requisitions, accounts of the common good have been usually, if not always, lodged; and even the possibility of their examination must have had a beneficial influence, although the actual performance of the task, where it was not altogether omitted, could not be productive of much good, in the absence of that local information which only the presence of an adverse party was likely to afford. From the few accounts of an early date still preserved, some curious notices might be gleaned as to the actual state of the burgal properties to which they relate, in the reign of James VI.; but beyond the fact, that there was occasionally, at least, an excess of expenditure beyond the ordinary revenue, and of the just causes of which no estimate can now be formed, there is little to be learned as to the state of administration; although the circumstance now alluded to tends to confirm what is otherwise sufficiently notorious, that an improvident system of management, in the application of the ordinary revenue, as well as in that of the property itself, had already become prevalent.

Although the Act of James V., in 1535, held out an invitation to all concerned to come to Exchequer, and to argune and impugn the accounts of their burghs, as they might please, with a view to the cessation of all murmur in that behalf,—an invitation which was probably, in most cases, neglected,—yet even this satisfaction appears at length to have been thought a dangerous indulgence of the discontented; and when, in the reign of Charles II., the functions of the Great Chamberlain, which had, for more than a century, been vested in the Auditors of Exchequer, were ultimately transferred to a board which united the duties both of Treasury and Exchequer, the title and right of private burgesses to do more than *inspect* the accounts, was brought to the test, and substantially set at nought. In March 1683, as reported by Lord Fountainhall, who was then, probably, of counsel with one of the parties, Captain Thomas Hamilton, merchant in Edinburgh, instituted a process in Exchequer for compelling Sir James Fleming, and Sir James Dick, two late provosts, and some other magistrates of the city, "to produce their books and treasurer's accounts, upon oath, that the High Treasurer might see if they had applied the patrimony and common good of the burgh to necessary and profitable uses. The magistrates, and Sir James Rochead, their clerk, being startled at this, they raise the like summons against Sir Andrew Ramsay, and all that had borne office in Edinburgh since 1653. After great heat between the Chancellor (Earl of Aberdeen) and Treasurer, (Marquess of Queensbery,) the Exchequer refused to sustain process at private burgesses instance, (so as to make it *actio verè popularis*,) it looking too popular and democratick, like Tomaso Anello of Naples, or Count Tekely's mutiny now in Hungary; but found, by the 36th Act, Parliament 1491, and Act 25, 1535, that the High Treasurer, as come in place of the old Chamberlain, and his air, may call any burgh to an account how they spend their common good; and therefore ordained the magistrates, against the 9th of April next, to exhibit and produce before him their books, that he might inspect them, and take notice of any helps or informations should be given him by the citizens, or others, thereupon; and sustained this summons, at least, as an intimation by the inhabitants to the magistrates, to satisfy them how they have employed so vast a yearly common good, conform to the words of the said 25th Act."*

To the same purpose, it is stated by Sir George Mackenzie, who was then King's Advocate, in his observations on the Act of James V., "It was thought that a pursuit against the magistrates of Edinburgh, for compting for their common good, upon this Act, was not competent at the instance of a private burgess, or of any save the Lord Treasurer of the kingdom, who comes in place of the Chamberlain air, though it was said to be *actio popularis*, and a species *suspectæ tutelæ;* but this would give too great occasion to faction, and would have discouraged magistracy too much; nor are such popular actions, in matters of government, to be easily allowed under monarchy, though they are necessary in private rights."†

The discouragement of burgal magistracies by any popular challenge of their administration having been thus prudently averted, it is scarcely necessary to add, that neither the extraordinary commission of the following year, (1684,) nor the commission issued in terms of the Act of Parliament, 1693, nor the ordinary

* Lord Fountainhall's Decisions, vol. i. p. 231.
† Mackenzie's Observations on the Acts of Parliament, &c., p. 131.

powers of the Courts of Exchequer, either before or after the Union of the Kingdoms, appear to have disturbed the usual course of management, or to have been much aided in the discharge of their official duty of control, by "any informations or helps given by burgesses or others." Indeed, for many years after the establishment of the present Court of Exchequer, in 1707, no attempts appear to have been made to call the magistrates of burghs to account. In the Court of Session some attempts of the kind were made, but without any real success. Thus, in 1748, certain burgesses of Selkirk instituted a suit against the magistrates for alleged misapplication of the public revenues, but were met with objections both to the jurisdiction of the court, and to the competency of any popular action; and, from the contemporary reports of the case, it appears that the opinions indicated by the judges were so unfavourable that the pursuers did not venture to press for a judgment. In those cases where a specific injury had been inflicted on the burgesses, such as depriving them of a right of common pasturage, it has been held that they were entitled to maintain an action against the magistrates, for having their interest in the common property declared and vindicated, but in none of these cases has the competency of a general accounting received the slightest countenance. PROPERTY, &c.

About the year 1787 the general malversation which pervaded the burghs of Scotland induced the burgesses to institute measures for developing the full extent of the evil, and for obtaining a remedy; and in that year a petition was presented by the burgesses of Dumbarton to the Court of Exchequer, praying that the accounts of the burgh might be examined, pursuant to the provisions of the Act 1535. As the powers of the Great Chamberlain had been transferred by that Act to the Auditors of Exchequer, and by the commissions and statutes above referred to, had been continued in the Board of Treasury and Exchequer, and ultimately deposited in the court established at the period of the Union, it seems very difficult to imagine in what way this important branch of jurisdiction should have been lost to the country. Certain it is, however, that the court overruled the application, mainly on the mistaken assumptions that the statute never had been in observance, and, almost from its date, had fallen into desuetude, and that, even if it had been in observance down to the Union, the change upon the constitution of the Court of Exchequer had abrogated that jurisdiction.

In 1820, the attention of the burgesses of Scotland having been turned towards burgh reform, a suit was raised in the Court of Session against the magistrates of Inverury, charging them with gross mismanagement of the burgh property and revenues, specifying particular instances where its funds were either misapplied or not accounted for at all, and concluding that the magistrates should be ordained to bring the sums specified to the credit of the burgh, and to enter into a general accounting with regard to the whole of their intromissions. The judgment was, *first*, that questions concerning the management of the common good and revenues of royal burghs, or the contraction of debts by the magistrates, are incompetent before the Court of Session, except so far as jurisdiction is conferred by the statute of 1693; and, *secondly*, that burgesses have no title to complain of acts of mismanagement on the part of the magistrates which do not directly affect their private and patrimonial rights. 1820.

In consequence of these proceedings, the creation of a competent tribunal was felt to be indispensable, and was loudly called for. To meet this demand, an Act of Parliament was passed in the year 1822, (3 Geo. IV. cap. 91,) intituled, "An Act for regulating the mode of accounting for the common good and revenues of the royal burghs of Scotland." The leading object of this statute is, to regulate the accounts and administration of the councils of burghs royal, both in their strictly municipal character, and as Trustees for Charities. Accordingly, it is provided, *first*, that a particular and authenticated account shall be framed, containing certain specified branches and articles, which shall remain open for the inspection of the burgesses during three months after the election of the magistrates: *Secondly*, that the burgesses shall be empowered to make objections to it in writing, and to demand the exhibition of vouchers; and, in the event of not being satisfied, any three burgesses are entitled, within a limited period, to make a complaint in writing to the Barons of the Court of Exchequer in Scotland, who shall proceed to determine the same in a summary way: *Thirdly*, that alienations and leases are to be made by auction, after public notice; and no notice of such alienations shall be given until an act of Council shall be passed specifying the particulars. The notice of sale shall be given for the first time during an

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Exchequer term, and at least twelve days before the expiration of such term: and the "Court of Exchequer may grant an injunction, or do otherwise as to the court shall seem just:" *Fourthly*, that magistrates or councils shall not contract debt, or grant obligations, without a previous act of council: And, *fifthly*, that debts and obligations not so contracted shall be void, as against the common good of the burgh, and the succeeding office-bearers; but the personal liability of parties contracting is reserved. The pecuniary penalties are recoverable in Exchequer from the delinquents.

However well intended, it is now unquestionable that the provisions of this Act have proved nearly useless. There have been six different suits under it, in three of which the burgesses failed; in one they were successful, and in two others the proceedings were not brought to a conclusion. The first of these suits, which was instituted by the burgesses of Nairn, will be sufficient to illustrate the practical difficulties which arose. In 1823 an information was filed at the instance of certain burgesses against the magistrates, for the penalties exigible under the 8th section of the Act, on the allegation that, in the sale of certain lands, the statutory provisions had not been complied with. It was necessary to prove that the complainers were burgesses; and their legal advisers, who were cognizant only of the law of Scotland, were of opinion that the production of burgess tickets, and the testimony of the town clerk, would be sufficient evidence. Burgess tickets are usually in the form of extracts or certified copies, taken from the records of the town council, subscribed by the clerk, and, in Scottish courts, are admitted as evidence of burgess-ship. But a different rule prevailed in the Exchequer, which affected to observe the English forms of judicial procedure; and, on producing those documents as evidence, the objection was taken, that, by the law of England, extracts, although authenticated, are not evidence, so long as the principal record is extant. The objection was sustained; and production of the record having been called for, and not made, a verdict against the complainers was immediately directed and given, which was followed by heavy costs. It is understood that, had this objection been unsuccessful, numerous other technical objections, derived from English practice, were in reserve, some of which must have been sustained.

A detail of the causes of failure in the other cases would be superfluous; and it is sufficient to observe that, in the opinion of the country, this statute is not fitted to afford any practical remedy.

II. Practical and recent Proofs of the inefficiency of the preceding Laws.

From the preceding review of the law and practice of Scotland relative to the regulation and control of burgal affairs, and from the tenour and language of the various statutes and royal commissions which have been quoted, it is almost superfluous to state the general conclusion, that the dilapidations of the common good of burghs royal, the misapplication of their revenues, and the contraction of debt beyond the ordinary means of the burgh to discharge but by absolute alienations, have been carried, in the greater number of cases, to their utmost extent.

1. *Maladministration relative to Alienations.*

The fact that almost all the Scotch burghs had originally extensive possessions, of which the far greater portion is now lost to the community, is so universally known and admitted, that we did not think it necessary to ascertain the full extent of those Alienations by which their original endowments have been gradually so much diminished, and have thought it sufficient to restrict our inquiries to such acts as have taken place within the last forty years.

Ancient.

A few examples of Ancient alienations may, however, be given. Thus, the city of Aberdeen formerly possessed lands of great extent, the greater part of which were alienated for very small feu-duties, in virtue of powers contained in a charter from the Crown, dated 4th March 1551. Fishings, now producing about £10,000 a year, were about the same time alienated for an annual feu-duty of £27 7*s.* 8*d.** Again, about 1581, Banff obtained a charter, giving power to the Corporation to feu the property of the burgh to burgesses and their heirs male, under condition of a forfeiture, if alienated to any other than a resident burgess. The condition having never been observed, or soon disregarded, the greater part of the property was

* Report of Committee of House of Commons, 1819, p. 23.

acquired by the neighbouring noble families of Findlater, Fife, and Banff. The whole parish of Ayr, at one time, belonged to the burgh. It fell into the hands of the Crown by a feudal casualty; but James IV., by a charter dated 16th February 1507, again granted it to the burgh, with a power of alienation, which has been so freely exercised, that nearly the whole has been granted in feu. It has been already mentioned, that permission was, in 1691, given to the Corporation of Glasgow, by the Convention of royal burghs, to sell lands of great value, because heavy burdens had been "occasioned by the vast soums that have been borrowed by the late magistrates, and the misapplying and dilapidation of the town's patrimony, in suffering their debts to swell, and employing their common store for their own sinistrous ends and uses." These lands were accordingly sold, avowedly in consequence of the malversation of the magistrates. Had this not happened, the burgh would now, in addition to its present estate, have been in the possession of lands worth from £100,000 to £150,000,—a sum sufficient to have relieved the inhabitants of almost all the burgal taxes that now press on them. PROPERTY, &c.

In Modern times the same system has prevailed.* From 1812 to 1817, numerous superiorities in Mid-Lothian were sold by the town council of Edinburgh to members of its own body and their friends. The sales were made without advertisement, or notification of any kind, and without evidence of value; and, although the transactions were immediately beneficial to the city, and have proved ultimately unprofitable to the purchasers, they were so conducted as to deprive their authors of the credit of having acted on any public principle.† One of the town council of Inverness, in 1797, privately purchased, for an inadequate price, and a small feu-duty, lands close to his residence, which, although represented in the minutes of council as "barren and of no use," were improved at a small expense, and let for a yearly rent nearly equal to the consideration given. In Tain, from 1774 to 1816, there were numerous alienations to members of council, by private bargains, and for inadequate prices. The burgh of Renfrew made four different sales to the provost; and, in every instance, the proposal for the sale originated with that magistrate himself, and was sanctioned by his official signature. In one instance, it is expressly stated in the minutes, that the only reason for the sale was that it would be beneficial to the provost; and in no instance does there appear to have been any necessity for the sales, in order to raise money for the use of the burgh. Several instances of improper alienation in the burgh of Lochmaben were of more difficult detection, as the records had been kept with great irregularity; but it is certain that in 1801 a considerable farm was sold to the father-in-law of the provost for the time, no entry of which transaction appears in the records. Other instances, though of minor importance, have been found in Dumbarton, Lanark, Tain, Annan, and Wick. Modern.

2. *Maladministration relative to Leases.*

A similar course of mismanagement appears to have long prevailed in relation to Leases, which not unfrequently have been granted privately to members of council for inadequate rents, while, on the other hand, unwarranted allowances have been made for ameliorations. Thus, in Dunfermline, in 1808, a lessee of burgh property, a member of the council, was allowed, for ameliorations, a sum nearly three times the amount stipulated for, and received abatements to the amount of nearly one-third of his rent.‡ The fishings of Dumbarton had, for several years, been privately let for £170 to a tenant, two of whose relations were members of council; but, when they came to be let by auction, a rent of £385 was obtained. A farm belonging to Tain was let privately to a member of council for the unusual period of three nineteen years, at a small rent. The lessee was bound to relieve the burgh of the minister's stipend, and other public burdens, and to pay the rent free of all deductions, he receiving an allowance for ameliorations to a certain extent. Yet the burgh treasurer continued to pay the stipend, and other assessments, and, at different periods, additional sums were allowed for ameliorations, without an account rendered, or inspection made. The lands were sub-let at a considerable advance of rent. In 1787, a lease of lands belonging to Inverness was granted for thirty years, and for a small rent, to a person who, in the following year, was a member of council; and, in 1792, a prorogation for fifteen years was privately given to

* Rep. Select Committee of House of Commons, 12th July 1819, p. 19, 20.
† Rep. House of Commons, p. 23-4.
‡ Rep. of Committee of House of Commons in 1819, p. 432-3.

PROPERTY, &c.

him, in consideration of a small additional rent. One of the bailies dissented from the determination of the council, and declared it to be, in his opinion, unprecedented and unreasonable. In 1794, it was resolved, without evidence of outlay, that, on expiration of the lease, a considerable sum should be allowed for ameliorations, which sum was, in 1832, paid to the lessee's representatives. In the same year the lands were let by auction for nineteen years, at more than five times the former rent. At Dumfries, members of council have, for many years, been lessees of branches of the common good; and the danger of this practice has recently been exemplified. The joint lessee with a member of council having died insolvent, his estate yielded a dividend of 10*s*. per pound, while there had been paid to account of the rent a portion somewhat exceeding what such a dividend would have amounted to on the whole year's rent. When the annual accounts were audited, the member of council, keeping his own liability out of view, and representing that the lessee's estate had yielded no more than 10*s*. per pound, prevailed on the council not only to discharge the arrear, but to refund a part of what had been paid; but a committee of investigation having been appointed by the succeeding council, he paid the whole balance due. From an act of council of the burgh of Kinghorn, passed in 1818, it appears that "the town council have been known to sett various parts of the Common Good by private bargain to themselves and their friends; and the said members of council, and their friends, have not only held the said articles of the Common Good at an undervalue, but have been allowed to run greatly in arrear to the town, whereby its revenue has been much injured." In Renfrew, the property of the burgh has, in several instances, been let to members of council, who had been allowed to fall into arrear. Lanark also furnishes an instance of apparently corrupt management in this respect.

Remissness in enforcing payment of the revenue has, in some burghs, given rise to considerable Arrears, and consequent loss.*

3. *Actual Property and Revenue.*

Out of the wreck of common property which has escaped the destructive operation of the system we have been exposing, the remainder which still exists may be generally described as of two different sorts; the one of which has been considered in practice as alienable, and liable for the payment of debts; the other, such as does not properly admit of alienation or encumbrance.

Alienable.

The burgal property which can be sold consists of lands, houses, mills, fishings, feu-duties, and other descriptions of heritage. These always formed the larger portion of the Common Good of Burghs, and, in general, are situate within the royalty, or in its immediate neighbourhood. Arable lands, mills, and fishings, are let for the duration, and under the stipulations, usual in the district, and houses from year to year; but in some instances leases of longer duration have been granted, where a larger rent was given for a particular use, as for nursery ground.†

Several burghs possess personal property, which usually consists of shares in joint stock companies, or of debts due by public trustees, or private persons.‡ The former have almost uniformly been acquired for purposes beneficial to the burgh, such as the introduction of water or gas. In order to facilitate commercial intercourse, shares have, by some burghs, been purchased in road or harbour trusts, but, although well intended, this mode of investment is, in general, imprudent, because it is seldom profitable, is subject to great depreciation, and cannot be easily realized.

Inalienable.

The property not usually saleable consists of public buildings, such as churches, town-halls, and market-places, and common greens, or grounds set apart for the general use or enjoyment of the inhabitants. Large sums have occasionally been expended in building churches and market-places; and, although not converted into capital, the expenditure, in many instances, has been proper, as well for obvious public reasons, as on account of the annual revenue derived from it.§

Sources of Revenue.

The Revenues of burghs arise from the different kinds of property already enumerated, and from customs, feudal casualties, entry-money of burgesses, and, in

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* Rep. Tain, Dunbar, Kirkwall, Cupar, Kelso.

† Report, Glasgow. ‡ Report, Edinburgh, Banff, Inverness.

§ Reports *passim*, but particularly Edinburgh, Glasgow, Aberdeen, Dundee, Dunfermline, Perth, Inverness, Banff, Ayr, and Stirling.

some instances, from direct assessments,* of which we shall have occasion to speak in the sequel. PROPERTY, &c.

These revenues are applied to defray the annual expenditure, of which the greater part consists of the salaries of burgh officers, repairs of property, the maintenance of prisoners, interest of debt, and, in some cases, stipends of the clergy. To these must be added the expenses of watching, cleaning, and lighting, in those burghs where they are not regulated by special statute. Application.

4. *Mode of Administration.*

In the management of burgh affairs, since the date of the Act of Parliament 1822, a system prevails, which may, on the whole, be regarded as uniform, though with more or less correctness in different burghs, and, in some cases, exhibiting marked examples of mal-administration. Property is sold or let, and the revenues are farmed on the warrant of acts of council, after advertisement, and by public auction. The transactions are recorded, and states of the property, revenue, expenditure, and debts, are engrossed in books of accounts exhibited for public inspection, abstracts of which are, in the larger burghs, printed and circulated. Debts are contracted, and obligations, such as contracts or suretyship, are undertaken, by the authority of acts of council.

In consequence of the diminished extent of property, and the greater vigilance with which the burgesses have watched over the proceedings of their magistrates and councils, alienations of the common property have become comparatively rare. But debts have in general been increasing, and they are large even in some of those burghs, the affairs of which have been best administered. The prices of property, and monies borrowed, have been applied, always ostensibly, and often really, towards the improvement of the burghs by the formation of public works; but there have existed great and numerous abuses, of which the effects are palpable, although the complicated nature of the transactions often renders detection difficult.

Where the magistrates and councils hold property in trust for charitable purposes, the same rules of administration are almost uniformly observed. But where they form a majority merely of the trustees, the provisions of the 3 Geo. IV. c. 91. have frequently been disregarded, because these provisions are compulsory only when they are the sole trustees.

In examining the present state of burgal property, and in considering the estimates of its value which have been communicated by the officers of different burghs, we have been strongly impressed with the mischief which has been already produced by exaggerated estimates, and the dangers that still impend over many burghs, in the reckless contracting of debts, without any just ascertainment of the means by which they may be ultimately discharged. Over-valuation.

Erroneous valuations have been of three kinds. A value has been put upon mere revenue, as if it were property; property which is regarded as not available to creditors, such as churches, court rooms, and similar buildings, has been included in valuations; and the available property has been rated at too high a value.

Edinburgh gives a remarkable example of the first; for "the gross annual amount of all the various heads of revenue receivable by the city, including the gaol fees, and money collected in the box, was taken at twenty years' purchase as assets, without deducting either the expense of collecting, the average of sums lost by bad debts, or abatements or deductions made, without considering whether the revenues are saleable or not, and without allowing for the annual charges with which they are burdened, or for some of them which are about to cease, and others which cannot commence for several years to come."† In many of the burghs, the customs, market dues, and even the street manure, are included as property.‡

In very few of the burghs has a distinction, in this respect, been made between property available and not available. According to a late valuation, the property of Edinburgh was stated at £411,375 13*s.* 9*d.*, in which statement was included the value put upon the Meadows, Bruntsfield Links, Leith Links, and the Calton Hill, some of which the city is debarred by statute from building on, and the power of selling others is very questionable. Instances of a similar kind pervade the Reports.§ Even in the burghs of which the affairs are well managed, the

* Rep. Banff, Macduff.
† Rep. Committee of House of Commons of 1819, p. 14.
‡ Rep. Annan, Anstruther Wester, Banff, Cupar.
§ Rep. Perth, Ayr, Banff, Dunfermline, Inverness, Stirling.

Property, &c.

valuations are sometimes doubtful. Thus, in Glasgow, we are convinced not only that, in some instances, the valuation is too high, but that in others it rests in a great measure on the speculative assumption that extensive tracts of ground will be feued at a high rate. In Banff, the computed value, in some instances, when compared with the rent, is obviously excessive; and in others it is calculated by taking the highest supposable number of years' purchase. The property of Dunbar is valued at £16,500, of which £5,000 are the value placed on a common, upon which the burgesses have a right of pasturage, and from which no revenue is derived. The property of Dumbarton was in 1819 valued at £10,658 6*s.*; and in 1833 it was valued at £17,910 16*s.* But no satisfactory explanation of this discrepancy was given; and it is remarkable that, as the debt increased, the magistrates discovered that the value of the property had likewise so advanced as to create assets sufficient to leave a balance in favour of the burgh. Port Glasgow presents remarkable instances of over-valuation; for, in the latest valuation, one property is estimated at £7,800, which, in the year 1832-33, produced a rent of £96 only; and £11,500 is the value put on another property, from which, during the same year, the return was only £178. Without entering into more details, we have seen enough to convince us that the estimated value of the property, in many burghs, is much above its real worth.

5. *Expenditure.*

Of the far greater number of burghs it may be stated, generally, that their Expenditure, whether ordinary or extraordinary, has exceeded their proper resources.

Salaries.

The excess of ordinary expenditure has partly been occasioned by paying too large Salaries to public officers, or by giving undue profits to tradesmen. Edinburgh affords a remarkable example of overpaying public officers. A chamberlain, accountant, collectors, and clerks, were employed for the management of the revenue at an expense of between £2,000 and £3,000 a-year, whereas one-half of the sum would have been ample remuneration; and similar extravagance prevailed in relation to many of the

Contracts.

subordinate officers. Excess arising from undue profits allowed to tradesmen, or contractors for public works, is of more difficult detection; but the results leave little room for doubt. Members of council are frequently employed as the burgh tradesmen, without competition, and without any check on their charges. In Dumbarton a committee of council was appointed to superintend certain repairs; the committee consisted almost wholly of the persons employed in executing the work, or in furnishing the materials; the repairs were made much greater than necessary, and the accounts were audited by themselves. In Anstruther Easter a member of council was employed to repair the harbour and streets at a considerable yearly expense, without estimates, competitors, or checks upon his charges.

The excess of expenditure beyond the amount of ordinary revenue has arisen in part from outlays on public buildings, or on works for public purposes, from the expense of obtaining Acts of Parliament, and not unfrequently from the costs of litigation, and the expense of public entertainments.

Public Works.

Although the erection of Works for public use must, in many cases, have been either necessary, or so beneficial as to warrant extraordinary expenditure, there are numerous examples in which this apology is wanting. Thus, improvements were executed by the magistrates of Aberdeen, which, although affording great additional comfort and conveniency to the citizens, were yet executed on a scale of expense so disproportionate to the real means of the city, that it was at one time reduced to insolvency. In Edinburgh churches were built at exorbitant expense; and recently a school-house was erected at the cost of £33,000, three-fourths of which sum was paid by the city. In Dumbarton some property belonging to the burgh was improved on so extensive a plan, that debt was necessarily contracted; whereas, under good management, the expenditure might have been defrayed out of the revenue. In Banff a market-place was erected, which, although useful, and making a certain return, was more expensive than the revenue warranted, and consequently caused an increase of the debt. At Cupar much money was injudiciously expended on a gaol, in which accommodation and utility were sacrificed to external appearance; and with this must be combined considerable sums laid out in opening up new streets. It is needless to multiply examples, as even in burghs, the affairs of which are now, in general, well managed, there is a strong tendency to under-

take expensive public works, without duly considering the adequacy of either the means or the return. PROPERTY, &c.

Lawsuits have been a source of great and general waste. The rights of a community must no doubt be supported: but, judging from the great number and heavy costs of the suits in which burghs have been involved, it is impossible not to conclude, that they have been frequently engaged in without due deliberation. To these expenses must be added the cost of procuring Acts of Parliament for improvements, which is often much increased by unnecessarily sending deputations to London. In Edinburgh these united expenses were, for the years from 1819 to 1832, upwards of £35,500. In Dundee the law expenses, from 1788 to 1818, amounted to £4,316 16*s.* 10*d.*; within the last eight years, £4800 have been expended on procuring private statutes; and for the years 1828-1833 inclusive, the account for law agency amounted to £3,637. In the smaller burghs the evil has been proportionally great. In Dumbarton the law expenses have, since 1807, amounted to £6,700. In St. Andrew's it appears in evidence that "a great deal of money was thrown away in lawsuits;" one of which was an action of damages brought against two of the magistrates for cutting down certain trees. The council resolved to defend the suit, which cost upwards of £600. In the small burgh of Dingwall £1,200 were expended in an action with regard to a right of fishing, which, considering the nature of the right, or at least the mode of using it, could not be deemed worth that sum. In Fortrose a large sum (the precise amount of which could not be ascertained) was expended upon a lawsuit, for which the council records exhibited no warrant. In Burntisland £500 were expended in a lawsuit between the magistrates and burgesses. And in Annan the funds of the burgh were applied in paying the amount of damages and costs awarded against the provost, senior bailie, and procurator fiscal, for false imprisonment. Lawsuits and Private Statutes.

Although it cannot be properly stated as a branch of extraordinary expenditure arising out of the administration of burgal affairs, it may here be mentioned that, in various instances, heavy sums of damages have fallen on the funds of royal burghs in consequence of failure, or negligence, in the proper custody of prisoners for debt. In Dumbarton a considerable sum was lost, by reason of the debtor having escaped through the remissness of the gaoler. The magistrates of Annan gave a debtor extraordinary indulgence, by allowing him the freedom of the different apartments in the prison, and even permitting him, as he was the sheriff of the county, to hold courts in the town-house, which was situate within the prison. The Court of Session and House of Lords held these indulgences to be illegal, and subjected the magistrates in payment of the debt, as for an escape. The debt and expenses, amounting to upwards of £2,000, were paid out of the funds of the burgh. Within these few years, likewise, another debtor escaped from the gaol of Annan; and the debt, with costs, amounting to about £1,200, was made good from the same source. In Dingwall £800 was thus lost; and in Wick upwards of £144 in one year. In the two last instances, it is but justice to say that blame could hardly be attached to the magistrates, for the funds of the burgh were inadequate to the construction of secure prisons. Liability by reason of Escape of Debtors.

Although, of late years, the lavish expenditure on Civic Entertainments has been diminished in many burghs, it cannot here be altogether overlooked. In Edinburgh the cost of entertainments in 1819 was £782; in 1820, £1,066; and in 1821, £755. In Inverury, the revenue of which was very small, upwards of £600 had been expended, between the years ending 1805 and 1817, in paying tavern bills for entertaining the council, to an innkeeper, who continued to be the resident chief magistrate until the election under the Burgh Reform Act in 1833. In Lanark the expenses for entertainments amounted, during 1815, to upwards of £108. In other burghs, as in Tain, Pittenweem, Selkirk, and Renfrew, there has been evident excess in this department. Civic Entertainments.

6. *Debts.*

In the contracting of Debts, the managers of municipal corporations appear to have possessed facilities which have proved most mischievous to all parties. Relying upon the credit of public funds, the true value of which was ill understood, or skilfully misrepresented, private individuals have been but too easily induced to become lenders; and magistrates themselves, being frequently the trustees of public charities and endowments, have seldom scrupled to avail themselves, for burgal purposes, of funds which were thus placed within their grasp. Borrowing in this manner from

PROPERTY, &c.

themselves, it is unnecessary to prove that those rules, by which prudent men are guided in pecuniary transactions, would not be very strictly observed. Accordingly, it has repeatedly happened, either that no specific security was given, but the trust funds were blended with those of the burgh, or the security on which they were ostensibly borrowed was of little or no value. Thus the magistrates and council of Edinburgh borrowed the funds of a trust, of which they were the sole managers, and impledged the ale-duties for repayment, though these duties were greatly inferior in amount to the debts with which they were already burdened, and were to expire in five years. In Aberdeen the magistrates and council not only borrowed funds, on the security of heritable property belonging to charities, of which they were the sole trustees, but sold part of that property, to the amount of nearly £35,000, and applied the whole in payment of the debts of the city.

In very few instances has obedience been paid to the injunctions of the statute 1693, that the causes of borrowing money shall be specified in a minute of council. The minute usually sets forth merely that the council authorized a certain sum to be borrowed. It is no apology that the later Act of 3 Geo IV., c. 91, neither enjoins specification, nor refers to the statute 1693; for, as this last statute has not been repealed, compliance with its provisions is necessary. So little, however, have they been regarded, that in one instance the magistrates admitted that it was "not easy to ascertain with accuracy the exact periods when, and for what purposes, the debts were incurred."*

In Dumbarton it was a common practice for the treasurer to report to the council that he had received cash advances from members of council, or other persons; and the money having not only been thus borrowed without authority, but even expended, the collector was authorized by the council to grant bills for the total amount. Payments were likewise frequently made to the creditors of the burgh, not through the treasurer, but by individual members of council, whom the council afterwards recognised as creditors, and granted bills to them.

Even in those burghs, of which the affairs are well managed, the debts are large. In Glasgow the total value of the available property is stated to be upwards of £212,000, while the direct debts, independent of suretyship, amount to upwards of £78,000. And in Perth the debts amount to about £40,000, and the property to upwards of £67,000.

The credit of Aberdeen now stands high, but at no distant period the affairs of that burgh were in the greatest disorder. In 1817 the corporation was compelled to surrender the management of its estates and revenues to creditors. The magistrates and council, aware of the mischievous consequences of the system which had for some time been in operation, on retiring from office in 1817, recorded their disapprobation of it in the strongest terms. In the Report of the Committee of the House of Commons, in 1819, the debt is stated at £230,000; but in consequence of the fall in the rate of interest, of a great rise in the value of part of the property, and of the prudent course of management pursued by the creditors, there was a considerable diminution of the debt, and the magistrates and council were reinstated in the administration. While, however, there has been this diminution of the debt, there has been a more than proportionate decrease of the funds of the burgh.

Edinburgh has lately become insolvent; and while there has been much dispute as to the real value of the assets, it seems certain that the debts amount to upwards of £688,648. The disclosures made before the Committee of the House of Commons, in 1819, were sufficient to have satisfied men of ordinary prudence that the affairs of the city were in so dangerous a state, that the utmost economy was necessary to avoid bankruptcy; but, nevertheless, a system of profuse expenditure was continued; although, according to the evidence of the accountant, he repeatedly acquainted the corporation of the peril to which they were exposed. Devices of various kinds were adopted, in order to satisfy the demands of pressing creditors, and to avoid a declaration of insolvency; and, even when that declaration had become unavoidable, states of affairs were exhibited, which, upon examination, were found to be fallacious. In 1833, a statute (3 and 4 Will. IV., c. 122) was passed, by which the property of the corporation was vested in trustees for the payment of their debts.

In Dumbarton there has been a gradual increase of debt, which has terminated in bankruptcy. In 1819 the records of the burgh exhibit, for the first time, a statement of debt, which then amounted to upwards of £10,000; but for the year ending

* Report of Committee of House of Commons, 1819, p. 34, relative to Dunfermline.

at Michaelmas, 1832, it was upwards of £19,000. Throughout attempts were constantly made to conceal the real state of affairs by framing the annual accounts in a mode so complicated as to render investigation extremely difficult; and, as the debt increased, the value of the property was fictitiously enlarged in proportion, so that there was always an apparent balance in favour of the burgh. Some years ago the affairs of the burgh of Lochmaben, in consequence of embarrassments created by unwarrantable expenditure and gross malversation, were, on the suit of the creditors, put under judicial management, and a moderate allowance having been made by the Court of Session, for defraying the necessary municipal expenses, a part only of the debt has been paid. In 1822 the whole available property of the burgh of Auchtermuchty was placed under sequestration, and sold by the authority of the Court of Session. In that case, after full consideration, the petty customs, and the public buildings of the burgh, consisting of a court-house and prison, were excepted, as unalienable. PROPERTY, &c.

Independently of debts, strictly so called, there exist, especially in the more important burghs, extensive liabilities arising from suretyship. In Edinburgh, besides minor engagements, there is one Cautionary Obligation to the amount of £50,000. The liabilities of Glasgow amount to upwards of £65,000. In Dundee they are numerous and heavy. In Perth one obligation amounted to £15,996 17*s.*; but it has been progressively reduced by the payment of the debt. It may sometimes be useful, for promoting the construction of harbours, roads, or other public works in the neighbourhood, that burghs should come under such obligations; and there seems good reason for hoping that in few of the cases now referred to will there arise any ultimate loss; yet the practice is, in its own nature, of such a dangerous tendency, that, if not absolutely prohibited, it ought at least to be placed under rigid control. Cautionary Obligations.

In close connexion with these topics, we beg leave to observe, that the liability of private burgesses, for the debts or obligations incurred by the burgh, has, at different times, been much canvassed, but hitherto has never been judicially determined. Evidence relative to this subject having been taken by a Committee of the House of Commons, in 1821, the Report bore, that while no evidence had been laid before them to prove the liability, they were "of opinion that every doubt on this point should be put an end to by an Act removing such liability as to all future alienation."*

7. *Improper or defective Administration relative to Books and Accounts.*

A system of Books and Accounts, at once clear and accurate, could not be expected to be prevalent throughout the burghs of Scotland. The revenue of many of them is so small, that they have not hitherto employed chamberlains or factors; and, in consequence, the immediate management of their pecuniary affairs has been devolved upon one of their number styled the treasurer, who, in many instances, has neither sufficient knowledge nor time to conduct the management as it ought to be conducted. In all the larger burghs chamberlains have been employed; but, even in them, the system of accounting is often defective.

In Glasgow, Perth, Paisley, Kirkcaldy, and some other burghs, the accounts are kept according to the most approved system of book-keeping, and are examined with great care and regularity. In Edinburgh the system has been defective, when compared with the extensive and complicated affairs of the burgh; and the printed abstracts circulated were neither full nor accurate. In some of the smaller burghs†, and even in others of more importance‡, a private cash-book is kept by the treasurer or chamberlain, in which his receipts and disbursements are entered; but, though this book is kept by him for the affairs of the burgh exclusively, it is in no sense a public record, and is not delivered to his successor. No separate banking account is kept, but the public monies are paid in and drawn out as his own.

Even when there are proper sets of books, the accounts, in some instances, are kept in so complicated a form as almost to exclude investigation. Thus, the accounts of the revenue, expenditure, and debts of the city of Aberdeen, are kept under six different heads. This is the subject of general complaint among the inhabitants, as it renders the true state of affairs obscure. While the "Treasury Account" ought to include the whole monies received and expended, it contains a

* Report of Committee of House of Commons, 14th and 15th June, 1821, p. 9.

† Tain, Kirkwall, Wick, Kelso. ‡ Inverness.

PROPERTY, &c.

part of them only; and, in order to obtain complete information, it is necessary to examine five other accounts, the entries in which relate as closely to the affairs of the corporation as to those in the Treasury Account.

In some of the burghs, the books and accounts have been so irregular, that the true state of their affairs could not be ascertained. In Dunfermline, formerly, the accounts were exhibited only to a few select members of the council; and now there is a double set of accounts, made up at different dates, before the appointment of the present chamberlain, which, for about ten years, have not been audited, and which do not appear to have been so framed as to admit of audit*. Those of Dumbarton are, as formerly mentioned, framed in so complicated a mode as to conceal the real state of affairs. The books and accounts of Port Glasgow are so imperfect, being merely extracts or inventories, not summed up in many places, that, while it is extremely doubtful whether those intimately acquainted with the affairs of the burgh could obtain an accurate result from them, those not so acquainted could not make even an approximation to accuracy. If possible, a worse system prevailed in Lanark; for the books did not show the amount of debts, or the net income, nor did they contain regular accounts of monies received, or states of arrears. The practical result has been, that the accounts of three successive treasurers, comprehending a period of more than twenty years, are still unsettled. The affairs of Fortrose had, for about twenty years, been under the exclusive management of one person, who acted occasionally as provost, treasurer, dean of guild, or councillor. There were no regular books or accounts, and such accounts as were kept remained exclusively in his possession, and were never submitted to public inspection. When the district commissioners examined them, many gross omissions and vitiations were found; and there seems to have been an attempt to mislead, for which we beg leave to refer to the local Report. In Fraserburgh there are two sets of books, one of which is never exhibited for public inspection, while the other is open to creditors. The former, when taken as a whole, by reason of the miscellaneous entries in each, and the mixture of matters which ought to have been kept altogether distinct, formed a mass so confused, that, if not absolutely inextricable, it could have been developed only by a professional accountant, after much labour. The latter were distinct and regular. The contrast affords a strong proof of the beneficial results of exhibition, although comparatively limited. The statute 3 Geo. IV., c. 91, professed to secure to the burgesses of royal burghs inspection of the accounts; but there is no such right even in appearance in burghs of barony, and mal-administration is the natural consequence.

In consequence of gross carelessness, the books and accounts of some burghs have been lost. In Kelso none are extant previous to the last forty years; and, notwithstanding an active search, the present treasurer had not been able to discover any trace of them. And those of Nairn had, during a comparatively recent period, been so ill preserved, that, when we examined its affairs, a few of them only were discovered by us. The books of the chamberlain of Dunbar were burnt in 1827, and no satisfactory account of the cause has been obtained by us.

Mal-administration of Mortifications.

In some burghs the funds vested in the magistrates and council for charitable purposes, which are usually called Mortifications, have not been properly administered. Mention has already been made of the gross mismanagement which occurred in Edinburgh and Aberdeen, and of the practice of the magistrates or council borrowing, in their corporate capacity, the funds vested in them as trustees. A striking example of malversation, with relation to the property of Trinity Hospital in Edinburgh, has been observed. The town council of Edinburgh are the administrators, and they consented to the imposition on its funds of a debt of £4,000, for making a road, and building a bridge near the city, by neither of which any part of the property of the hospital was benefited. Without actual malversation, there is sometimes carelessness. Thus, in Banff, a fund, of which the magistrates were administrators, was vested in Government stock, in the names of four of the burgesses, without any declaration of trust. Two of them being now dead, and a third lately bankrupt, there remains only one in whom the trust is confided.

III. REGULATIONS PROPOSED FOR FUTURE ADMINISTRATION.

We have now exposed the manner in which the estates and revenues of the

* Report of Committee of House of Commons of 1819, p. 34.

burghs of Scotland have been administered for centuries: and having thus fully disclosed the nature and extent of the evils of that misgovernment by which the burghs have been so long afflicted, it will be the more easy to judge of the efficacy of those regulations which may be proposed for restoring a purer system of administration. With regard to the consequences of past mal-administration, redress, except in a few instances, is now unattainable. And this we regret the more, when we consider, that if the large possessions which were bestowed on the Scottish burghs had been managed with common prudence and honesty, the taxes and burdens by which almost all of them are now weighed down would have been nearly unknown. But it now only remains to protect the estates, or fragments of estates, which still belong to burghs, and to guard their property and revenues against future acts of malversation. This task is rendered less difficult by the principles recognised in the ancient statutes, which are, in many respects, sound, but for the effectual execution of which no adequate provision appears to have been made. Adopting, therefore, these principles, we shall endeavour to supply what is wanting in them, by suggesting remedies which can be easily enforced by means of local investigations, and the superintendence of the provincial courts. PROPERTY, &c.

1. *Public Accounts.*

An accurate system of financial management must have for its foundation a correct mode of keeping and exhibiting the Public Accounts. The confused and imperfect manner in which they have been kept, especially in the smaller burghs, has afforded opportunities for the misapplication of monies, and the concealment of wasteful expenditure; and, even without intentional wrong, losses by arrears and defective entries were unavoidable. The regular and somewhat complex schemes of modern bookkeeping could not safely be proposed for all burghs, since, in many of them, requisite skill would be wanting; but we beg leave to suggest a plan, as simple as may be consistent with fulness and accuracy, which may be improved on in the larger burghs, by the adoption of more systematic methods.

1st, The town clerk should make up, at such term as may be fixed on, after passing any new act relative to the administration of burgal affairs, a statement in the form of a stock account, showing the whole property, revenue, and debts due to and by the burgh. Proposed Regulations.

2dly. The town clerk should, at Lammas annually, make up a state of the sums receivable annually by the burgh, arranging them under branches, as rents, feuduties, customs, produce of assessments, arrears, &c.; which state should be revised by a committee of the council, and certified to be correct. This state should be entered in a proper account-book, and a copy of it furnished to the chamberlain or treasurer as his authority for collecting.

3rdly. The chamberlain or treasurer should in all cases keep a cash-book and ledger, which books should form a part of the burgh records.

4thly. The cash-book should be examined and doqueted half yearly by a committee of the council.

5thly. The chamberlain or treasurer should, within one month after Lammas annually, make up an account of his intromissions for the past year, concluding at that term. This account should be arranged in the form of charge and discharge, each part to be divided into proper heads, and be examined and doqueted by a committee of the council on or before the 15th of September annually.

6thly. After the chamberlain's accounts have been made up and doqueted, the town clerk should, on or before the 1st of October annually, prepare a complete state, showing, *first*, the common good and other property of the burgh, classed under different heads; *secondly*, the amount of debts due to and by the Corporation; *thirdly*, the amount of each branch of revenue, distinguishing how much has been received, and how much is in arrear, and the years for which these arrears are outstanding, and showing also what abatements, if any, have been given; *fourthly*, the amount of all sums received, including loans, prices of annuities, &c.; *fifthly*, all sums paid, and all sums due and unpaid, during the year for which such state shall be so made out, distinguishing the fixed or ordinary from the casual or incidental expenditure, and also showing all cautionary obligations incurred by or on account of the burgh, distinguishing such as shall have been incurred during the year. This state should be examined by a committee of council, approved of by a minute of council, and subscribed by the chief magistrate and town clerk.

7thly. An abstract of the said state should be immediately prepared by the town clerk, and published in one or more newspapers of greatest circulation in the

PROPERTY, &c.

burgh, before the 10th of October annually. In burghs where no newspaper is published, but where the revenue exceeds £100 annually, the abstract should be printed on or before the 10th of October annually, and a copy thereof delivered *gratis* to any elector who shall demand the same at the town clerk's office.

8thly. The accounts and vouchers should be exhibited *gratis* to the electors demanding the same, for *two* months after the 10th of October annually, and they should at all other times be exhibited to any elector demanding the same, on paying a fee not exceeding 2*s.* 6*d.* per hour to the clerk attending them in making the inspection.

2. *Trusts, Charities, and Mortifications.*

With respect to Trusts and Charitable Endowments committed to the charge of magistrates, or where the magistrates and councillors form a majority of the trustees, the following regulations are submitted to be expedient:—

1st. Books should be kept, separate from those relative to the common good of the burgh, showing, under proper heads, the Property, Revenue, and Expenditure of the Trust.

2ndly. The books or accounts should be brought to a balance within 20 days after Lammas yearly, and doqueted as at that term.

3rdly. On or before the 1st of October yearly, a state should be prepared, showing, *first*, the properties and funds of the trust: *second*, the debts affecting the same; *third*, the income and expenditure; and, *fourth*, if the trust be for purposes of charity or education, the abstract should state the manner in which the endowment has been administered, and the parties who have participated in the same, during the preceding year.

4thly. In trusts where the annual income exceeds £100 sterling, an abstract of the said state should be published in a newspaper of the greatest circulation in the burgh.

5thly. The books and accounts should be open to the inspection of any party having an interest, present or contingent, in the trust, for two months after the 1st of September annually.

6thly. When any investment of trust funds is made in the name of magistrates or councillors, as individuals, they should be bound to subscribe a declaration of trust as to the same in the council books.

3. *Valuation of Property.*

The evils arising from over-valuation have been stated. It should therefore be made imperative upon all burghs to have their Property valued once in every five years by skilful persons, and the estimate should be according to the price which the property would give, if sold at the time, and not according to any speculative considerations of an advance in value.

4. *Alienations,—Feus, and Leases.*

We have already had occasion to state what we hold to have been the original condition of burghs as to the power of dealing with the real property bestowed on them by the Crown; and that it was regarded as strictly inalienable appears to be unquestionable. Certain onerous public duties and obligations were imposed on these communities, the discharge of which was held to be fully compensated by the property and the privileges so largely conferred on them; and if, in the discharge of any of these duties and obligations, pecuniary means beyond the ordinary revenue were to become necessary, it certainly was not intended that such exigencies should be met by a permanent diminution of the burgal property. Accordingly, it appears, from such documents as exist, that in all cases of the sort now alluded to, the only resources accessible to the communities were either to appeal to the beneficence of the Crown, in the abatement of its regular annual claims on the burgesses, or to levy a personal assessment or taxation on the inhabitants; in aid of which it became latterly of no unfrequent occurrence to obtain a portion of relief from the other burghs of the kingdom. In what way, and under what pretences, these salutary principles were gradually encroached on has been already stated, and is illustrated in many of our local Reports; and the result, in numberless instances, has been the absolute destruction of the far greater part of the ancient burgal property. These pernicious operations on their property have generally been preceded by the contraction of large debts, and have appeared to derive a certain apology from what was due in justice to creditors, and from the degree of countenance and support which was given to such proceedings by the judicial decisions of the last century. Having in view the existing obliga-

tions and securities of burghs created under a state of the law which must be admitted to have been rendered somewhat doubtful by recent practice, and which, in several cases, are at present the subject of judicial investigation, we regret that it might not be proper for us to recommend any absolute legislative declaration of the more ancient law as now referred to; and our duty seems to us, in the existing circumstances, to be unfortunately limited to the suggestion of such regulations as may prevent any similar dilapidations in future. PROPERTY, &c.

We therefore propose,

1. That, so far as the property belonging to burghs is at present liable to be attached and carried off for debts due to the burgh creditors, the magistrates and council should have it in their power to dispose of such part of the said property as may be necessary to pay the debts, or to effect a new loan for the redemption of such debts on the same security, or other property equally liable to be attached and carried off for such debts. But no such sale should be made without the authority of an act of council setting forth the debt for payment of which the sale is to be made, and describing the lands to be sold. Suggestions.

2. That in future, and without touching any existing rights of creditors, there should not, except in the case above provided for, be any power to alienate the real property belonging to burghs, or to borrow money upon the security of such property, so as to affect the property itself, or even the annual revenue derivable therefrom, unless there may be a surplus of such revenue in any particular year after defraying the whole municipal expenses of the burgh for that year.

3. That no money should be borrowed without a report from the treasurer or chamberlain, stating the purpose for which a loan is required, which report should lie a month on the council table. Two-thirds of the council must concur in a vote for the loan. Without the authority of an act of council, all bonds and other obligations granted for loans should be void, and the act of council should be published in a newspaper, and by notices, as in the case of sales, at least one month before the money is borrowed.

4. That no lands should be granted in feu, or on leases for building, for a price or consideration paid down, but the consideration should be an annual feu-duty or ground rent. No lands or other real property should be let, for other uses than building, for a longer period than 19 or 21 years. Every grant in feu, or on lease for more than three years, must be authorized by an act of council, setting forth the reasons of the grant, and the conditions on which it is to be made. Leases for not more than three years may perhaps be exempted from this and the subsequent provisions.

5. That each act of council, for the purposes before mentioned, should be published in a newspaper, either of the burgh, or of the nearest adjacent place, at least two months before the day fixed for selling, feuing, or letting on lease, and repeated at least three times, at intervals of 14 days each. Notices should also be put up in conspicuous places in the office of the town clerk, and in the council chamber.

6. That in all cases, except the location of agricultural subjects, the sale, feuing, or letting should be by public auction, and all private transactions should be void.

7. That no member of the council, or officer in their employment, should be capable of purchasing or of acquiring feus or leases.

8. Though we think that leases of real property, for periods not exceeding three years, need hardly be subjected to these regulations, yet we are inclined to apply them, with suitable variations, to revenues of the nature of customs. They should at least be let annually by public auction, after due intimation for a month in a newspaper, and in the council chamber and town clerk's office.

9. That exchanges of real property, termed in the law of Scotland excambions, should be subjected to regulations similar to those which apply to sales, for the purposes before mentioned, except the exposure to public auction; and the value of the properties to be exchanged should be ascertained by the oaths of persons of skill.

In order to repress the tendency to undertake expensive Public Works without due consideration, and to check improvident expenditure in general, we are of opinion that some such regulations as the following might be of service:— Public Works and Contracts in general.

1st. No work or improvement, of which the estimated cost shall exceed £100, should be undertaken, without a previous report by a committee of council, showing its expediency or necessity. Along with the report, a professional specification and estimate should be laid before the council; and after both have remained on the table for one month, two-thirds of the council should concur in an act authorizing the projected work or improvement.

Property, &c.

2nd. The work should be executed by contract; and no member of council, or officer appointed by the council, should be capable of becoming a contractor for performing it.

All contracts, of which the subject matter exceeds £100, and which are not included under some of the foregoing heads, should be subjected to similar restrictions, subject to such variations as their nature may render necessary.

IV. Prospective legal Remedies for Mal-administration.

The abuses in the administration of burgh affairs, under the present state of the law, have arisen mainly from the want of courts having proper jurisdiction, and of parties having a clear title to challenge them; and it therefore appears to us that legislative provisions, such as the following, ought now to be made:—

Suggestions.

1st. That all acts done in breach of the regulations should be void and null, as against the common good of the burgh, or against the succeeding magistrates or town council, and also as against any trust of which they may be administrators, without exempting from personal liability the parties who have committed the wrong.

2nd. That such regulations as may be adopted should be enforced by suitable penalties, not exceeding £50 for each offence, to be exigible from each offender, besides compensation for damage suffered.

3rd. That it should be competent to any three or more persons, standing at the time on the roll of electors within the burgh, to complain, by summary petition, either to the Court of Session, or to the sheriff of the shire within which the burgh is situate, of the breach of the regulations, within three months after the wrong has been done, and to conclude for the penalties, providing always that the complaint has been lodged within three months after the date of the alleged breach, and that within 14 days thereafter the complainers shall have found caution for the costs.

4th. That, in all prosecutions for penalties, costs should be awarded to the successful party; and that it should not be competent for magistrates or councillors, or other office-bearers found liable in penalties, to charge any part thereof, or of the costs of suit, on the property or funds of the burgh; and that, if so charged against the common funds, reimbursement should be made by the parties subject in the penalties.

5th. That it should also be competent for any three or more electors, on finding caution for costs, as aforesaid, to apply summarily for interdict, either to the Court of Session or sheriff, against any contemplated act of mismanagement or misapplication of the funds, and to sue summarily for redress of any wrong done, provided always that in such cases the Court should have full power to decide as to costs, and to make the same chargeable either on the funds of the burgh or on the parties.

6th. That at any stage of the action it should be competent to any persons standing on the roll of electors to sist themselves as complainers or pursuers, and either in concurrence with the original parties, or by themselves, if such original parties have withdrawn, or have become incompetent to prosecute such proceedings to an issue; it being always understood that there should be not less than three such complainers or pursuers at any one time; and that if the original com plainers or pursuers have ceased to be parties to the suit, the new parties, on entering appearance, should find caution for the subsequent costs.

7th. That as cases may occur in which gross abuses in the management of burgal funds may not be checked or punished, from the neglect, poverty, or collusion of the electors, it should be provided that the Lord Advocate of Scotland, for the public interest, should have a concurrent title to sue either in the Court of Session, in his own name, or through the procurator-fiscal in the Sheriff Court, for redress and punishment of any act of malversation, or of any misapplication of funds of any burgh.

8th. That the regulations, as far as they are applicable to trusts held by the magistrates, should be in like manner enforced by penalties, for which suits may be brought by any party having an interest in the due administration of the trust, present or contingent, or by the Lord Advocate of Scotland, in the manner above proposed.

9th. And that it should also, in like manner, be competent to the same parties to institute complaints or actions for preventing or correcting abuses, or acts of mismanagement and malversation, in the affairs of trusts held by the magistrates, or where the magistrates and council form a majority of the trustees.

Of course the adoption of these suggestions would imply the repeal of all the statutes which are inconsistent with them.

II.

TAXATION.

BESIDES the revenues of royal burghs, derived from real property, originally conferred on them by grants from the Crown, other means and sources of income were provided to meet the ordinary expenditure of their municipal establishments, as well as the demands to which they were liable, as composing one of the three estates of the kingdom. These may be considered, generally, as of two classes; the one consisting of taxes or assessments on property of certain descriptions within the burgh; the other of taxes, or certain duties imposed on traffic within the liberties of the burgh.

I. ASSESSMENTS OR STENTS.

Of the first class there is one important branch which we have already had occasion to explain, and which may here be thrown out of view, namely, that portion of public taxations incident on burghs royal by direct legislative authority, as one of the estates of the kingdom; as to which, however, in the sequel, we shall have occasion to make some observations, in treating of what is now commonly known by the name of *the Cess:* and as to the other branch of the same class, namely, taxations on burgal property for burgal purposes, it might also have been passed over as having become little more than a matter of history, were it not for the suggestions we are about to propose for a modified revival of the ancient system.

Origin of the power of Municipal Assessment.

The early history and practice of burgal taxation, for merely burgal purposes, cannot be fully illustrated by any existing records; but there is no doubt that in the communities of burghs royal there resided the power of imposing personal Assessments on their members for local purposes, and, in particular, for maintaining the public peace and good order within their bounds. In those earlier periods, when it was held to be a point of fixed law that no extraordinary exigencies, how weighty or urgent soever, could warrant or justify any encroachment on the real property and original endowments of burghs, the only regular and legitimate resource was by voluntary assessment on the inhabitants. It may, however, be presumed that such measures would not be very willingly resorted to; and at later periods, when a system of encroachment and waste on the real property of burghs began to prevail, and to be tolerated even in the courts of law, it cannot be matter of wonder that the burgesses for the time, having no very sensible or obvious interest in its future fate, should not have been very solicitous to arrest the progress of that pernicious system by any present sacrifice of their own interests; and that, accordingly, so long as any such means could be found, the practice of voluntary taxation should have almost entirely ceased.

The duty of assessing the burgesses for their respective proportions of public or parliamentary taxations, exercised, perhaps, originally by officers of the Crown, must have been assumed in each burgh by its own proper government, almost as soon as it had acquired the character of a municipal corporation; although, even as to this class of taxations, it appears to have been a part of the duty of the Great Chamberlain to inquire and ascertain that these burdens were fairly apportioned; "si equaliter ponantur super divitibus et pauperibus juxta eorum facultates;" and at later periods there appear on the statute book various ordinances for regulating or extending the class of individual burgesses, or burgal inhabitants, who were to be subjected to the payment of the public taxes, as well as of those properly local, and destined to merely municipal expenditure.

Statutes.

Thus, in an Act of the Parliament of Scotland, in 1592,* relative to the class of persons liable to taxations both public and local, those of the latter kind are referred to as taxes or *stentes,* "pertaining to the utilitie of the burgh;" and in the Parliament of 1597 there is the following important Act expressly regarding burgal taxation for local purposes: "Forsameikle as there is diverse inhabitants that dwells and remains within the free burrows with their families, and are of reasonable substance: As alswa hes rents and livings within the samin burgh, yit refusis to contribute for the interteinement of the puire, watching

* Act. Parl. Scot. 1592, c. 75,—vol. iii. p. 578.

Taxation.

and warding within burgh, with the rest of the nichtboures: or to bear their parte of sik uther dewties as concerns his Majestie's service, thereby living at liberty, neither knawand the magistrates in kirk nor policy, to the great hindrance of his majestie's service, and the haill realme: For remeid quhairof, it is statute and ordained, be our soveraine Lorde, and three estates of this present Parliament, that all sik as hes their residence and dwelling within the said burrows, be their families, and may spend ane hundredth pounds of zeirly rent within the same, or stented be the discreet nichtboures, to be worth twa thousand *markes* in free guddes, sall be subject to be burdened with the rest of the inhabitants, for the advancement of the glory of God, and his Majestie's service, and well of the burgh quhair they dwell: Providing that this Act be not extended to sik as are exeemed for his Majestie's service, as ane of ilk occupation for that cause: Neither to ony persons that are members of the Colledge of Justice, and admitted be the lords of the session."*

These statutes are not here quoted as conferring on burghs royal the power of local taxation, but merely as recognising and regulating the exercise of a power which must have existed from the earliest periods. In the same view, various judicial proceedings of a still later date may also be referred to, in which the existence of such a power is not called in question, but only the mode in which, under particular circumstances, it may have been exercised, or the description of persons liable to such impositions. Of these cases, which are not, however, very numerous, the following are the most deserving of notice.

Judgments of Courts of Law.

In the year 1663, one of the vassals of the town of Inverness, by whom a part of the burgage property was holden in feu-farm, having been *stented* in a certain sum, with the rest of the burgesses, resisted payment, "upon this reason, among others, that the stent was unjustly imposed, not only as to the proportion, but also in regard the stent was imposed for defraying some particulars, and paying some debts unwarrantably contracted, and for which the inhabitants and burgesses could not be liable, not having given any consent thereto. Likeas, the common good of the burgh being the proper subject out of which the burgh's burdens should be satisfied, the same is misspended by the magistrates, who would always take this course to burden the inhabitants, for defraying of burdens contracted by their own misgovernment. And yet the party, (suspender) of his own consent, was content to satisfy what was now imposed on him, there being a rule and order determined for the future, how the inhabitants may not be oppressed with such stents. It was answered, that the stent was imposed by sworn men appointed by the town council, who found the cause of the stent just; to which it was replied, that the magistrates can impose no stent upon the inhabitants without their own consent, and calling them for that effect, unless for such taxes as are appointed and put upon burghs by law." The Court, while they found the party, in accordance with his own concession, liable in payment of the stent for which he had been charged, annexed to their judgment the following declaration and finding: "That in time coming, before any stent or taxation be imposed by the town council, there ought to be public intimation made thereof to the whole burgesses and inhabitants of the town, by ringing of a bell, or tuck of a drum; and they being convened, the just and necessary cause of the stent ought to be signified to them, and that the common good is not able to defray the same, being otherwise exhausted; and for that effect, that the town's books be made patent, that thereby it may appear how the common good is employed; and that the stent-masters are to be elected by the town council, but their names to be intimate to the whole burgesses and neighbours, that they may be heard, to propone any just exception against them; and that the stent-roll be made known to all, that every one may know his proportion thereof."†

Such is the account of this case, as reported by Sir John Gilmour, then Lord President of the Court of Session; and that it was regarded as an important precedent, and just exposition of the law, is abundantly evident from subsequent cases.

Thus, in the year 1672, another question arose between the same parties, in which the town of Inverness was pursued by the feuers, "for imposing unwarrantable stents, not authorized by Parliament, and that upon them who were not inhabitants, but feuers of the town-lands, for their minister's stipends, reparation of the bridge, and for processes against the pursuers themselves, and that the stents were most unequal, and that they had proceeded contrary to the Lords' sentence formerly pronounced, whereby they declared, that no voluntar stent should be

* Act. Parl. Scot., 1597, c. 46,—vol. iv. p. 141. † Gilmour's Coll. of Decisions, p. 70.

imposed without authority of Parliament, till publick intimation were made, and beating of drums, calling the whole inhabitants to show the cause of the imposition, and that it was for the good of the town; and that they might also object against the stent-masters, and that the stent-roll should remain four days in the clerk's hands, that they might see their proportion, and complain if they were unequally stented."* Again, in a subsequent and similar case, in 1678, between the town of Aberdeen and certain inhabitants, occasioned by an act of the magistrates and council ordering a large stent for burgal purposes, the complainers expressly founded their challenge upon a violation of the order of the Court of Session in the case of Inverness, by which, "as to the form of impositions and stents of burghs," it had been declared, "That before any stent, proclamation should be made by touk of drum through the town, intimating the reason of a stent, that if it were on a publick law, all parties having interest might be present at the election and swearing of stent-masters, and might object against the qualifications of them; and if a voluntar stent were proposed, that the whole traffecking burgesses, members of the incorporation, might compear to consider the reasons thereof, and to consent to the same, if they found it necessary or profitable, by the plurality of these who appear, and that the stent, after it were made by the stent-masters upon oath, should remain four days in their clerk's hands, patent to all persons stented, that they might complain to the magistrates if any were stented that should not be, or were unequally stented." In this case it was ultimately found by the Court, in conformity with previous decisions, "That the magistrates might stent for the utility of the burgh, but then only upon calling the whole incorporation, and proceeding with the consent of the major part of these who should happen to conveen, and observing the order prescribed by the Lords, in the case of the town of *Inverness*, and found that the stent-masters might stent according to their best information and discretion upon their oath, where the burgesses did not compear and make faith upon their stock and profit; but found no inhabitants could be stented, except burgesses exercising trade or merchandice, and that for their tenements and lands within burgh allanerly."† Taxation.

In the statutes and judicial proceedings which have been now referred to, as illustrating the existence of a power of imposing taxes for burgal or local purposes, independently altogether of those authorized by direct parliamentary authority, the regular modes of imposing and apportioning such taxes are very clearly indicated. In the first place, it appears that the necessity or propriety of such taxations or voluntary stents was the subject of deliberation in an assembly of the whole members of the community, either when met at the regular head courts of the burgh, or when called together at other times expressly for that purpose. In the second place, it also appears that the duty of *stenting* the inhabitants who were liable to such taxes, that is, of fixing the precise amount for which each individual was liable, whether according to his property or to an estimate of his trade and merchandize, was intrusted to the magistrates, who discharged this duty either directly or by the intervention of officers called stenters or stent-masters, appointed by them, and whose functions were alike applicable to parliamentary and burgal taxations. In the statute of 1597, already quoted, providing *inter alia* that persons residing within burghs, having a certain amount of property or of yearly income, though not members of the community, "should be subject to be burdened with the rest of the inhabitants," it is declared that they shall be "stented by the discreit neighbours;" and in another Act of the same Parliament, relative to the imposition of public taxations, the appointment of stenters by the provost and bailies of burghs is plainly acknowledged.‡ To the same purpose, but still more expressly, it is enacted in the Parliament of 1633, (c. 2,) that, for effecting the payment of that portion of a public tax which was then imposed on the burghs, letters should be direct, "charging the provost, bailies, and council, within each burgh, to convene and elect certain persons to stent their neighbours, and, the said election being made, to charge the persons elected to accept the charge upon them, in setting of the said stent upon the inhabitants of every burgh, and to convene and set the same, and make a stent-roll thereupon, as effeirs, within twenty-four hours next after their charge."§ Mode of imposing Burgal Assessments.

In like manner, in the Acts of Conventions of the three estates, imposing public taxations, in the years 1665, 1667, and 1678, the appointment of stent-masters is

* Lord Stair's Decisions, vol. ii. p. 69.
† Ib. p. 588.
‡ Act. Parl. Scot., 1597, c. 47,—vol. iv. p. 142.
§ Act. Parl. Scot., 1663, c. 2,—vol. v. p. 16.

TAXATION.

recognised as the duty of the magistrates and council; and as to such taxes, this has continued to be the practice down to the present day.

Head Courts.

It has been already stated, that the practice of imposing voluntary stents or taxations, as a source of revenue, has all but entirely ceased throughout the burghs of Scotland, and accordingly, in the course of our local inquiries, it has been found that the instances, in recent times, are extremely few. Of these exceptions, the most remarkable occurs in the burgh of Banff, which, even at the present day, affords the singular exhibition of a head court in its utmost purity, and such as it probably once existed in the other burghs royal of Scotland. A stated annual meeting of the court is held on the 31st of December, for the purpose of imposing *the cess*, or public land-tax, and other taxes for local purposes for the service of the ensuing year; and of all its meetings public notice is "duly made by tuck of drum through the burgh, and at different times, and for several days, calling upon all heritors, burgesses, and others liable to give suit and presence thereto, and that none may pretend ignorance." In these head courts, which are lawfully fenced, and in which the magistrates preside, an annual resolution is passed by the members of the said "head court present," that certain specified sums, "as King's cess, and other public stents and taxations of the said burgh, be stented and imposed upon all lands, fishings, houses, tenements, and upon trade and merchandize, and upon the incorporations, and upon residenters and inhabitants within the burgh and liberties thereof, for the service of the year, according to the annual practice and custom of the burgh uniformly used and observed, to be apportioned, levied, and collected from all subjects, and persons liable in payment of the same, in the usual form and manner, and conform to the stent-roll to be made up and given to the collector for that purpose; the magistrates and council to name stent-masters for apportioning the same, and which heads of cess, and stent, and taxation so agreed to be vested and imposed," are declared to amount to a certain sum; and the portion applicable to the various purposes in view is voted accordingly. As this court grants the supplies, so it claims the right of inquiry into the disposal of them, by examining the accounts of the burgh, investigating the transactions of the magistrates and council, and approving or disapproving of them as it may deem proper.

In the town of Macduff, now included within the parliamentary boundaries of Banff, the feuers and inhabitants, influenced apparently by the example of their ancient neighbours, have for upwards of forty years been in the practice of holding courts, and assessing themselves for local purposes; but having no legal warrant for such proceedings, no attempt to enforce payment in cases of refusal has been made.

In the royal burgh of Montrose, head courts have been annually held for the last 140 years, under the authority of which certain assessments have been levied, and by which even new assessments for local purposes have been recently imposed: but in this, the only other instance that has been observed, it does not appear that the same extensive powers of taxation are claimed or exercised as by the head courts of Banff.

In none of the royal burghs of Scotland has a power of stenting for local purposes been lately claimed or exercised by magistrates and town councils, excepting in a few cases, where it has been successfully resisted, and in a few others, where stents of a trifling amount have been tolerated, and are now regarded by the burgesses as sanctioned by usage. Thus, in the burghs of Jedburgh and Nairn, the magistrates assessed the inhabitants to defray the expense of lighting the streets, and of bringing water into the town; but this having been done without authority, and at length resisted as illegal, these assessments were abandoned. On the other hand, in the burghs of Queensferry and North Berwick, small stents on trade for local purposes are now levied by the magistrates, and have been hitherto paid without resistance. In general, therefore, it may be stated, that in the burghs of Scotland the power of direct taxation by magistrates and town councils has, for more than a century, fallen into disuse. How far it may be expedient to revive the practice in a modified form we are to consider in the sequel.

II. CUSTOMS AND IMPOSTS.

Origin of Customs and Imposts.

The other general class of taxes peculiar to burghs, as already indicated, are those levied upon various articles of merchandize and traffic, under the name of Custom or Impost. In the short review already given of the nature and history of our burgal establishments, it has been stated that, from a very early period, the Crown asserted the right of exacting customs or impositions, more or less arbitrary,

on almost every article of either domestic or foreign commerce; and in some of the more ancient compilations of our law, the minute detail of the rates of exaction occupies a large space, and exhibits the practice of a most oppressive and vexatious system. Of these sources of royal revenue, the Crown never has been divested of that derived from custom on the staple commodities of foreign trade, or what has been denominated the great custom; while, on the other hand, the Petty Customs, levied on the smaller articles of domestic consumption, were, in their early charters, usually conveyed to the royal burghs, as a part of their common good, either directly, or as an accessory of fairs and markets, where alone any traffic, or exchange of such commodities, was permitted. Accordingly, the customs of the former class, on the export and import of staple goods, continued to be levied in the burghs having ports or harbours by officers of the Crown, called customers, (*custumarii*,) by whom the produce of the tax was accounted for in Exchequer; while those of the other class were collected by the officers of the burgh, and brought into the treasury as an important part of the ordinary revenue applicable to municipal expenditure.

Taxation.

Petty Customs.

These consuetudinary exactions, with many changes, and probably in a mitigated form, have continued down to the present times. In various instances attempts have been made to innovate on the ancient usages, by enhancing the rates of payment, or by imposing custom on articles of modern introduction, not included in the ancient tables. These attempted innovations, however, are liable to challenge in the Court of Session, and have in general been defeated, unless, in some few instances, where the substitution of one article of consumption for another of the same kind, which no longer remains in ordinary use, has been thought to afford a reasonable apology for the change. Even in such cases, however, the Court is now very little disposed to lend its sanction and authority; although, at some former periods, it did occasionally assume a larger discretionary power of regulating the objects and rates of such taxations.

In charters from the Crown, erecting burghs of barony and of regality, there is usually given to the superior a right to hold fairs and markets, and to levy Market Dues and petty customs. There seems no ground for doubting that such grants were mainly intended to defray the necessary expenses of a police, or other municipal establishments, in such burghs; but it is equally certain that in many cases those taxations have been diverted from their public purposes, and employed by the superiors as a source of private emolument and income. In other cases they are still applied, in whole or in part, to what we apprehend to have been their primary and proper destination.

Fair and Market Dues.

As closely allied to that branch of burgal revenue arising from petty customs, and falling under the same general head, it remains to be mentioned, that burghs royal situated on the sea coast, or on navigable rivers, have usually obtained grants from the Crown of the adjoining Port, implying or expressing a power of levying various Dues and casualties, avowedly for the purpose of maintaining the establishments necessary to safe navigation, but from which a surplus revenue has been usually derived for other purposes. In the exercise of this power of exaction, the burgal governments have been frequently charged with excesses and usurpations; but in this department, as in that of petty customs, the prevailing bent of more recent decisions has been to check all such attempts, and to hold that prescriptive usage forms the only rule and measure of such exactions. Where a different rule has become necessary, in consequence of the state of the harbours, or of the trade resorting to them, special Acts of Parliament have been obtained, by which additional powers have been conferred either on the magistrates of burghs, or on statutory commissioners; but under which the application of harbour dues and casualties has been usually limited to the improvement or maintenance of the necessary works and establishments.

Harbour Dues.

In this general review of the state of burgal taxation, as now existing in Scotland, it may be proper here to add, that in some of the larger burghs certain taxes or "imposts" are levied for municipal purposes in virtue of particular and temporary statutes. Thus, in Glasgow, the magistrates were authorized, by an Act of the Scottish Parliament in 1693, to levy an impost of two pennies Scots per pint upon ale or beer manufactured or sold within the city; and of this Act successive renewals have been obtained, of which the latest now subsisting (39 Geo. III. c. 140,) limits its endurance to 40 years. A similar impost had been previously granted to Edinburgh, in 1653, of which the latest renewal, limited to 38 years, was by

Imposts by temporary and local Statutes.

Taxation.

38 Geo. III. c. 54. In Dumfries, Montrose, Kirkaldy, Burntisland, and some other burghs, a similar statutory right of impost on ale and beer also exists, and is the source of a considerable revenue. Independently of the burdens thus imposed on burghs for purposes purely municipal, there are various others, chiefly of a statutory kind, which may be here incidentally noticed, as affecting the condition and interests of the inhabitants, more particularly in some of the larger towns.

Poor's Rate.

Of these, one of the most general is the tax for the maintenance of the Poor, as regulated by various statutes and royal proclamations. The tax is properly parochial, and in parishes entirely burgal the assessment is, in general, imposed on the inhabitants by stent-masters, according to their reputed means or substance. But, as in parishes entirely landward the assessment is regulated to a certain extent by the valuation of real property, it has become usual, in those parishes which are partly burgal and partly landward, to subdivide the amount of the whole parochial assessment into two separate portions, the one of which is levied on the burgh, and the other on the landward heritors and householders. Without entering into any detailed statement as to the varieties of practice in this respect, it may be enough to observe, that any attempt at an entire separation of management and liabilities, as between the burgal and landward portions of a parish, has, in a recent instance, been regarded by the House of Lords as contrary to the genius and true meaning of the laws applicable to this important subject.

Public Works.

Again, under various local statutes, the inhabitants of many burghs are now subjected to heavy assessments, levied not by the magistrates, but by parliamentary commissioners, for the expense of introducing water, of lighting the public streets with gas, and sometimes for improvements on the approaches into the town. The inhabitants of some burghs are likewise liable to a heavy tax for the maintenance of the Ecclesiastical Establishment. The burghs subject to this mode of payment were at one time more numerous than they are at present. Thus it existed in Glasgow, Inverness, and Dysart. While it has ceased in these burghs, the whole of the ministers of Edinburgh, the second minister of Montrose, and the minister of Queensferry, are still paid in this manner.

Ecclesiastical Establishment.

Road Money.

The tax which is levied throughout Scotland for maintaining the King's highways, usually denominated the "Road Money," is not properly a burgal assessment, and is under the management of statutory commissioners in each county; but in the application of the funds to the repairing of the streets, roads, and public passages within royal burghs, we have found that complaints of unequal administration are not unfrequent. The subject is one of great and general importance, into which we do not presume to enter; but we are satisfied that, in any future arrangements that may be contemplated, the maintenance of the roads and streets within burgh, and the application of the funds raised on burgesses and burgal property for that purpose, should be placed under the control of the magistrates.

III. Suggestions for future Regulation.

In stating the observations that have occurred to us in the course of our inquiries on this branch of municipal affairs, as at present administered, it is not to be concealed, as a matter demanding immediate attention, that the dilapidated and nearly unproductive state of the real property of the greater number of burghs, as well as of the other portions of what constitutes the common good, has left them without the means of adequately sustaining their municipal functions. How such deficiencies of ordinary revenue may be best supplied becomes, therefore, a matter of very grave and difficult consideration; for even if that branch of revenue derived from petty customs, and other analogous exactions, should be preserved entire, of the expediency of which very serious doubts may be entertained, there would still in many cases remain a void not easily to be filled, yet quite inconsistent with the useful subsistence of burgal establishments. In seeking a remedy for this evil, it is natural to look back to that system which formerly existed, and was resorted to in similar emergencies, of which we have attempted very briefly to sketch the history; and although we can by no means recommend the imposition of voluntary stents, to be authorized by head courts, or large deliberative assemblies composed of burgesses or any other description of inhabitants, in the manner practised in the sixteenth and seventeenth centuries, we are fully persuaded that something closely analogous, has, in many instances, become indispensable. In this, as in the higher departments of state, the principle of Representation must unavoidably be resorted

Principle of power of Assessing.

Municipal Representation.

to; and recent experience, and late political arrangements, have, indeed, so far prepared the way for a measure of the kind now alluded to, as to render its general adoption comparatively safe and easy. TAXATION.

In several of the larger and thriving towns of Scotland, where the increased and rapidly increasing population had outgrown the means of maintaining an effective police out of the burgal revenues primarily destined to that purpose, a direct taxation on the inhabitants has been found necessary. In the city of Glasgow this measure was adopted in the year 1800; and in Edinburgh, and many other considerable towns, similar measures have been since resorted to. It is scarcely necessary to state that at the present day no such expedient could have been sanctioned or enforced without the authority, in every instance, of a particular local statute, under which powers of Assessment for the purposes of police were given sometimes to the magistrates and council of the burgh, but much more commonly to certain commissioners, partly official, and partly to be elected by the inhabitants themselves. Indeed, under the usual constitution of burgal magistracies, as it existed down to a very recent period, no other course of proceeding or system of management could have been tolerated; but by the statutes now regulating the election of magistrates and councils a vast change has been effected, of which the indirect as well as the direct results must be numerous and important. In the choice of a town council, the inhabitants of a burgh have now an influence nearly alike, in its nature and extent, to that which has anywhere been conferred on them in the election of police commissioners; and for that reason, among others, we shall have occasion, in another branch of this Report, to recommend the abolition of separate commissioners of police, and the restoration to the burgal magistracies, as now constituted, of that part of their municipal functions which, of all others, most peculiarly belongs to them, and of which they could not have been deprived but under those adverse circumstances into which the financial concerns of the burghs have been brought. Examples of Assessments by Municipal Representatives.

It is under this view of the constitution of burgh magistracies, as now established by law, by which they have become the fair representatives of the popular voice, and have been brought into accordance with the feelings and interests of their constituents, that we are prepared to recommend an extension of the same principle, and to hold them as a body with whom, under certain modifications, the power of taxing their constituents may be safely and usefully intrusted. In doing so, we would of course mean it to be understood that the power of assessment should never be called into operation but under the pressure of manifest and undeniable public expediency, such as the constituents may be fairly presumed to feel and acknowledge; and, as a just preparative, we take it for granted that an accurate system of accounting is to be imposed on burgh magistrates and their officers; that due publicity is to be given to all their financial transactions, that the propriety of any intended imposition on the inhabitants may be thus completely disclosed; and that such premonition shall be given as may afford to the constituencies an opportunity of indicating their opinions and wishes in the annual election of councillors prescribed by the statute. In those cases, now unhappily too rare, where the common good of the burgh is still adequate to the necessary maintenance of its municipal establishments, the power of taxation can never be called into exercise; and in those where the adequacy of the existing funds is merely doubtful, the possibilities of reasonable retrenchment in municipal expenditure, or the reverse, and the consequent propriety or impropriety of stents or assessments, ought to be rendered completely manifest. Indeed, the powers we would thus propose to vest in the burgal magistracies, even as now modelled, are of a nature so delicate and important, that they ought to be restricted within the narrowest limits consistent with the public welfare; and, in that view, we beg leave to offer the following Suggestions:— Power of Assessing should be conferred upon Town Councils. Limitation. Suggestions relative to Grounds and Modes of Assessment.

1. In every case an Act of Council should be passed, setting forth in detail the state of the burgh revenues that has given occasion to such assessment, the amount of revenue required, and the particular purposes to which it is meant to be applicable.

2. This Act of Council should be published to the inhabitants in one or more of the newspapers of greatest circulation in the district, and also in any other way which the council may deem proper, for at least three months preceding any annual election of councillors; so that in all cases an election may take place between the date of such notice and the actual imposition of the assessment.

TAXATION.

3. Without attempting to enumerate all the branches of municipal expenditure which might properly give occasion to such assessments, and still less to impose any direct check on the discretionary power of the burgal magistracy in that respect, we may be allowed to state, as obviously falling within the class of municipal purposes for which provision must be made, the maintenance of an efficient police, including the paving, cleaning, lighting, and watching the streets of the burgh, the erection of works for the introduction of water, when a public establishment for that purpose has been found necessary, the upholding of the gaol of the burgh, or the contributing for the erection and support of a district gaol, the expense of apprehending and maintaining prisoners for offences committed within burgh, and, finally, the payment of salaries, or other allowances, to the functionaries of the burgh, such as town clerks, chamberlains, and other inferior officers, if any such should be deemed necessary.

4. We are of opinion that the basis of such assessments should be the real rent of all heritable subjects within the boundaries of the burgal jurisdiction, (excepting such portions of land as may be occupied for purposes entirely agricultural,) one half of the tax to be paid by the proprietor, and the other by the tenant. It seems also expedient that tenements under forty shillings of yearly rent should be expressly exempted from assessment.

5. With a view to the unavoidable expense that may be incurred on public works for the use of the burgh, it appears to us fit that a power of borrowing money on the credit of such assessments should be allowed, similar in its objects and extent to what is provided by the Act 3 and 4 Gul. IV. c. 46, for enabling burghs in Scotland to establish a general system of police.

6. All individual exemptions from taxation should be done away; saving, however, during the lives of the parties, any existing privileges of that kind which had been acquired by freemen and burgesses on their entry.

Power of abolishing Petty Customs, and substituting an Assessment.

In this altered and modified form, the revival of the power of local taxation would have appeared to us expedient, and, in many cases, indispensable, even on the supposition that the common good of burghs, consisting of petty customs and other exactions of a like nature, were to remain in its present state. But on the unequal pressure and unjust operation of that class of burgal taxes we have found the complaints nearly universal; and on their general impolicy, as a source of revenue, no doubts seem to be anywhere entertained. On these grounds we should have been desirous of recommending the entire abolition of petty customs, were it not that, in some of the larger burghs, where financial embarrassments are at present most severely felt, the revenue thus afforded is of very considerable amount, and, if suddenly withdrawn, it might be no easy matter to replace it by means of voluntary stent or taxation. In those burghs which still possess large revenues of a less objectionable sort, the abolition of all petty exactions on the internal traffic of commodities would occasion no serious inconvenience, and any deficiency which might be thereby created might be easily supplied by assessment. On a due consideration of these various circumstances, we are induced to suggest the adoption of what may be regarded as a middle course, and to give to every burgh the option of either continuing to levy the petty customs, in whole or in part, or of substituting in their place the requisite stents or assessments.

Suggestions as to Mode.

In giving to the burgal magistracies this important power of substituting assessments, we are of opinion that it ought to be fettered by various conditions and limitations; and, in that view, the following have appeared to us advisable in themselves, and calculated to mitigate, if not entirely to remove, any popular resistance or discontent. *First,* the amount of the sum to be raised should be fixed, as nearly as may be, according to the average produce of the seven preceding years, and the assessment or additional assessment to be imposed in consequence should not exceed that amount, with a reasonable addition to cover the expense of collection and of arrears. *Second,* intimation should be given in the newspapers at least one year prior to any final resolution of the council in favour of this measure. *Third,* a precise state of the amount proposed to be levied, and the rates and mode of valuation, should be published at least six months prior to the date of any such resolution. *Fourth,* the consent of two-thirds of the whole council should be requisite to effect the alteration. *Fifth,* the roll of assessment should be open for inspection for one month; and, during the succeeding month, any person assessed should be entitled to lodge objections. And, *sixth,* the assessment should not come into operation until six months after the roll has been finally adjusted.

Even in those burghs where it might be found more expedient, under their present circumstances, to reject the proposed option, and to retain, at least for a time, the system of Petty Customs, we are of opinion that some Modifications have become indispensable, in order to alleviate the gross inequalities of its pressure, and to remove some of the grounds of complaint which have been brought under our notice. In this view we would suggest that, within a year after the passing of any statute in that behalf, it should be incumbent on magistrates and councils to give effect to the following regulations. *First*, the table shall be revised and remodelled. *Second*, the duties shall be stated in sterling money. *Third*, there shall be a power to alter the duties, by withdrawing them from some articles, and imposing higher rates upon others; but so that the aggregate amount, as far as can be estimated, shall not exceed the amount collected, according to the average of the seven years preceding the date of the regulating statute. *Fourth*, notice of any such intended alteration shall be inserted in the newspapers circulated in the town or county, at least one year prior to the date of any final resolution of the council in favour of the measure, and shall be repeated every three months. *Fifth*, the change shall not come into operation until six months after the new tables have been adjusted. And, *sixth*, the tables, when adjusted, shall remain in force for seven years, at the end of which period it shall be incumbent on the council to re-adjust them; so timing the adjustment, that the new tables shall come into operation at the beginning of the eighth year.

Taxation.

Modification of Petty Customs.

Finally, under the head of burgal taxation, it may be fit to guard against the supposition that we contemplate the application of the power to any other purposes or measures, than those strictly connected with the maintenance of the proper municipal establishments, for the preservation of the public peace, and the order, good government, and general comfort and security of the inhabitants. For purposes of a different or more extensive scope, such as the execution of great public improvements, we are decidedly of opinion that no tax or assessment should be allowed but under the authority of a local statute. But, as too much facility in procuring such statutes has subjected the burghs to heavy expense, we humbly suggest that no Bill for a local statute, under which any tax is to be levied from the public, should be introduced into Parliament, unless it has received the approbation of two-thirds of the whole council, and unless due notice of a motion in council for that purpose shall have been given at least one year previous to its introduction.

Limitation of Power of applying for local Taxes.

We have already stated that in the management of harbours and ports, and in the exactions on trade and navigation, various abuses have been alleged to exist. Without presuming to estimate the true amount of the evil, we feel no hesitation in earnestly recommending the introduction of a General Harbour Act; a measure in accordance with the prevailing opinion of well-informed mercantile men throughout Scotland. The subject is one of a nature so peculiar, and depending so much on a degree of practical information to which we can lay no claim, that we feel it right to abstain from minute details, and to confine ourselves to this general suggestion.

General Harbour Act.

Although it does not properly fall within the description of a tax for municipal purposes, we deem it necessary in this place to take notice of the complaints which have reached us as to the imposition and collection of *the Cess*, or public Land-Tax. It has been already explained, that, from an early period, a certain definite part of public taxation has been imposed on the "estate of burghs," and that in each burgh royal its particular portion of the whole was levied by a stent or assessment, originally on the profits of trade, but latterly on real property, as well as on supposed mercantile profits. On this subject two different complaints are prevalent: the one, that assessments or stents on trade are, in their nature, inquisitorial and arbitrary, and in practice unequal and oppressive; the other, that in the view, or rather under the pretext, of defraying the expense of assessing and collecting the tax, a larger additional sum is levied in some burghs than is truly sufficient for that purpose.

Cess.

As to the former, the generality of the complaint seems sufficiently to justify us in recommending that stents on trade should no longer be made, and that real property should constitute the sole basis of assessment. We have no grounds for supposing that this regulation would much affect the incidence of the tax upon individuals; but it has the strong and manifest advantage of affording a criterion in itself obvious, and but little susceptible of arbitrary or capricious application.

Abrogation of Cess upon Trade.

TAXATION.

With respect to the other, we have no grounds for supposing that the complaint was well founded, excepting in a few towns; and under the present system of burgal government we feel confident that any excess of the kind complained of will no longer be attempted.

Abolition of Convention of Royal Burghs.

Under this head of our Report, it may not be unfit to advert to that very peculiar class of burdens still imposed on burghs royal, under the authority of their annual Conventions. In so far as regards the apportionment of the cess or public land-tax, of which a sixth part was imposed on the burghs, and which by the Treaty of Union was limited to the sum of £8,000 *per annum*, the interference of those assemblies appears to be of no serious utility; and, however desirable the imposition of additional assessments for the use of the smaller burghs may be, there seems so much the less expediency in tolerating its continuance, that it throws into the hands of those smaller and more numerous burghs the uncontrolled power of taxing their more opulent neighbours. Whatever respect, therefore, may be due to this ancient institution, we are of opinion that its continuance is no longer necessary or expedient; that its uncontrolled powers of assessment are unreasonable and dangerous; and that it would be proper to declare the present distribution of the cess to be permanent, so as to supersede all further interference or charge beyond the imposition of a small per centage, to compensate for the trifling relief now derived from those burghs of barony or regality to which the privilege of trade has been communicated. It would seem also expedient that the power of redeeming this tax should be plainly authorized by statute.

III.

JURISDICTION OF MAGISTRATES.

I. Present State of Jurisdiction, Civil and Criminal.

On the important subject of the Jurisdiction which belongs to the magistrates of burghs, we propose to lay before your Majesty a statement of its nature and extent, together with a view of the disadvantages of the present system; after which we will suggest such changes as appear to us advisable. As closely connected with jurisdiction, and forming one of the primary burdens imposed on burghs royal, we propose also to state the result of our investigation into the condition of gaols, and the remedies which may be applied to those abuses and imperfections which have been disclosed to us.

The magistrates of burghs, in general, may exercise, within certain limits, both civil and criminal jurisdiction. It is unnecessary, for the purposes of the present Inquiry, to trace minutely the origin of this jurisdiction. The charters of many royal burghs contain grants of sheriffship; and in other royal burghs, which have no express grant, a similar jurisdiction has been exercised, at least in civil causes.

1. *Civil Jurisdiction.*

The Civil Jurisdiction, competent to the magistrates of burghs, consists of various Branches:— Branches of Civil Jurisdiction.

1. They possess jurisdiction, in what are termed Personal Actions, to an unlimited amount. Their decrees are enforced within their own bounds by poinding; that is, execution against personal property; and by imprisonment, under what are termed Acts of Warding. Their jurisdiction is also, on special application, enforced by the Court of Session, which was ordained by the Acts 1593, c. 181, and 1606, c. 10, to issue warrants (Letters of Horning) on all "decreets, acts, and sentences of provosts and bailies within the burgh." In this manner the decrees of burgh courts, in personal actions for claims of the highest amount, came to receive execution as effectually and as extensively as decrees of the Supreme Civil Court itself. Personal Actions.

A similar jurisdiction in civil causes also formerly belonged to the magistrates of burghs of barony and of regality; but, by the Jurisdiction Act of 20 Geo. II. c. 43, this was removed from all but such as, "before the date of the Act, were independent of the Lord of Regality or Barony respectively." It is by virtue of this legislative reservation, as recognised in several instances by judicial decisions, that this jurisdiction is now exercised by the magistrates of Musselburgh, Kilmarnock, Paisley, and other towns of this class.

2. Magistrates have also the power of summarily arresting debtors within burgh who are suspected of intending to leave Scotland for the purpose of evading their creditors, or, as it is technically expressed, *in meditatione fugæ*. Indeed, anciently, this power of summary arrest extended to all debts contracted within burgh on open account, whether the debtor was *in meditatione fugæ* or not; but it was limited by the Act 1672, c. 8. Arrest.

3. Though magistrates of burghs have no power to decide questions of heritable right, they have cognizance of certain Possessory Questions relative to lands and buildings within burgh; but, in the greater number of burghs, such matters usually fall within the jurisdiction of the dean of guild. Possessory Actions.

4. The magistrates of burghs, as judges ordinary within their own territory, are competent to hold courts, in virtue of brieves from Chancery, for the service of heirs to their ancestors, whether in general or in special; and as proceedings of the former kind are often attempted on false or very insufficient evidence of propinquity, the courts of burghs, of the meanest order, are of course chiefly resorted to as the fittest for such purposes. Abuses of this description have accordingly been long the subject of just reproach, more especially in those cases where the object in view is not the acquisition of property, but the establishment of an ostensible pretext for the assumption of some honour long in abeyance, or actually extinct, and where the chances of contradiction are consequently very small. Even in cases of Peerage, claims in themselves often imaginary, and sometimes fraudulent, have in this manner obtained a temporary countenance, and been even acted on, prior to any adjudication by the House of Lords; and in cases of Baronetage,

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as to which no check whatever has been hitherto provided, the opportunities of abuse are still more ready and apparent, and have been very unsparingly employed.

Powers under Sequestration Statute.

5. The magistrates have cognizance, under the Sequestration Statute, 54 Geo. III. c. 154, of all matters relative to the distribution of the effects of debtors, when sold by creditors under the diligence of poinding, and also when competitions arise upon arrestments and forthcomings under that statute.

Justices of Peace.

6. The magistrates of some royal burghs are, by charter, constituted Justices of the Peace within the liberties of the burgh; and, since the union of the kingdoms, the chief magistrates of royal burghs, and several burghs of regality and of barony, have been generally included in all commissions of the peace for the county.

Commissioners of Supply.

7. The chief magistrates, and some of the other magistrates of each burgh, are generally named Commissioners of Supply, *ex officiis*, for carrying into effect the Acts relative to the land-tax.

Power of registering Deeds.

8. As one of the ordinary sequels of their civil jurisdiction, the records of the burgh courts were competent for the Registration of Deeds and all other regular instruments, by which they were at once endowed with the force of judgments or decrees, and became susceptible of immediate execution. Prior to the passing of the Act 49 Geo. III. c. 42, "for better regulating the public records of Scotland," this privilege of registration was unlimited; but in consequence of the gross neglects and irregularities which had been observed in this, as well as in some other classes of local registries, it was by that Act declared no longer lawful for the clerks of royal burghs, or of burghs of regality or barony, to receive and record any deeds or other writings, either as probative writs, or in virtue of "clauses of registration," either for preservation thereof, or for execution; but under two reservations in favour of royal burghs: *First*, that the clerks should still retain the power of recording instruments of protest on bills and promissory notes; and, *secondly*, that they should still be empowered to record dispositions, tacks, and other deeds relating exclusively to the property or possession of subjects holden in burgage, and situated within the liberties of burghs, or any deeds or instruments where all the parties to the same shall be burgesses, or have a legal domicile within the burgh at the period of registration. And by the same Act various regulations and provisions were made for the purpose of securing and enforcing the due execution of the duties thus reserved to the clerks of burghs royal.

Dean of Guild.

The Dean of Guild, in most of those burghs where that officer is recognised, possesses a peculiar jurisdiction in burgal matters, to the exclusion of the ordinary magistrates. In mercantile questions, whether between inhabitants or strangers, his judicial powers appear to be of great antiquity, and of an extent not well ascertained. By Act 1593, c. 184, it was declared that his jurisdiction shall embrace all actions and matters concerning merchants, betwixt merchant and merchant, and betwixt merchant and mariner, in the manner already used in the town of Edinburgh, and in all good towns of France and Flanders, where bourses are erected and constituted. But, in that large extent, this branch of his jurisdiction has long since fallen into disuse, and seems to be now limited to the power of preventing the intrusion of unfree traders.

Another branch of his official duties consists in taking care that buildings within burgh do not encroach on private property, nor on the public streets; and that houses in danger of falling be taken down. His jurisdiction in these matters is not subordinate to the ordinary civil court of the burgh; and his proceedings are subject to review only in the Court of Session. In this part of his duty he is assisted, in some of the greater burghs, by a *council*, who survey disputed buildings, and alleged encroachments on streets and property; and such cases of fact are decided on their opinion. In questions of law he generally acts by the advice of the town clerk or assessor.

Assessors.

By far the most important branches of jurisdiction now enumerated are, unless in a few smaller burghs, administered, not by the magistrates themselves, but by town clerks or Assessors, by whose advice the magistrates are guided. In particular, in all defended suits, the judgments are in general framed by the town clerks or assessors, without any communication with the magistrates, though one of the latter, *pro formâ*, subscribes the judgment.

Jurisdiction of Magistrates of Burghs of Regality and Barony.

In Burghs of Regality and of Barony, the Magistrates originally exercised a civil Jurisdiction as extensive as that of burghs royal; but by the Act 20 Geo. II. c. 43, abolishing heritable jurisdictions in Scotland, a distinction in this respect was

introduced between burghs which were then dependent on a feudal superior, and those which were then independent. To the latter class their civil jurisdiction was reserved in its former extent; but in the former it was reduced within very narrow limits, and declared to be incompetent, excepting for the recovery of rent within burgh, and to actions of debt or damage not exceeding forty shillings. Under this restriction several considerable towns, as Dalkeith and Kelso, remain at the present day; whereas, in such of the same class as now return or contribute to return Members to Parliament, as Greenock and Peterhead, that restriction is now removed; and by 3 and 4 Gul. IV. c. 77, it is provided that the jurisdiction of the magistrates shall be the same as in burghs royal. JURISDICTION.

2. *Criminal Jurisdiction.*

The Criminal Jurisdiction of the magistrates of burghs was anciently extensive; and in those burghs which possessed grants of sheriffship within their bounds still higher powers were exercised. Of this many examples might be given, but among the most remarkable were those where murders were instantly detected, and the criminals caught *red hand*, as in the well-known case of the Lord President Lockhart, in 1689, whose murderer was delivered over for instant trial in the Burgh Court of Edinburgh. In modern times, however, this criminal jurisdiction has been reduced in practice within narrow bounds, although it never has been expressly limited by statute; and the Jurisdiction Act, 20 Geo. II. c. 43, has specially provided that any jurisdiction or privilege of this class, competent to any royal burgh, shall not be taken away. Offences not inferring the punishment of death or transportation are accordingly in some burghs occasionally tried by the magistrates, with the assistance of their assessors; and by a recent order of the Court of Justiciary, (March 17th 1827,) regulations for the conduct of such proceedings have been prescribed. The technical formalities required by that order will probably have the effect of diminishing the number of such trials, and of accelerating their transference into the court of the sheriff. Extent of Criminal Jurisdiction.

Independently of the higher criminal jurisdiction now alluded to, there has been always vested in the magistrates of all burghs royal the power, and the consequent duty, of preserving the King's Peace; and in the due discharge of their powers in this respect, it is their business to repress, by suitable punishments, inferior transgressions against the quiet, police, or good order of the towns. By the Act 1 Geo. II. c. 5, (commonly called the Riot Act,) burgh magistrates are armed with additional powers, similar to those conferred on mayors, sheriffs, and justices of peace in England. Preservation of the Peace.

Further, it is the duty of magistrates of burghs, even in cases placed beyond their judicial powers, to take the necessary Precognitions previous to trial in the Court of Justiciary; and the discharge of this branch of their official duty is specially enjoined by 8 Anne, c. 16. Even in burghs of barony, the power and the duty of taking precognitions has been judicially recognised; and in general it may be laid down, that every magistrate of a burgh has right to arrest offenders, and commit them for trial by the proper court. Precognitions.

In Burghs of Regality and of Barony which, at the date of the Jurisdiction Act already referred to, were independent of any feudal superior, a criminal jurisdiction was reserved coextensive with that in burghs royal; on the other hand, in those which had not then attained to a similar independence, it was provided that the criminal jurisdiction should be limited to the trial of such petty offenders as were punishable by fine not exceeding twenty shillings, or by setting the offender in the stocks for a period not exceeding three hours. But in criminal, as in civil matters, this limitation no longer exists in such burghs of this class as now return, or contribute to return, Members to Parliament; and by the recent statute above referred to, the judicial powers of the magistrates are declared to be the same as in royal burghs. Criminal Jurisdiction in Burghs of Regality and Barony.

It may here be added, in reference to the state of both civil and criminal jurisdiction, that in those burghs of which the feudal superiority belonged, not to any individual lord of the regality or barony, but to a burgh royal, no limitations similar to those above alluded to have ever prevailed, it being expressly provided by the Act that the jurisdiction of the superior burgh shall remain entire, and be exercised as heretofore, whether within or without the royalty. Among the burghs of this description are the Canongate of Edinburgh, and Leith, holden of the city of Edinburgh; and the Gorbals, holden of the city of Glasgow.

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Execution of Sentences of Court of Justiciary.

As in some degree connected with this branch of burgal duty, it may here be mentioned that magistrates are bound to carry into Execution the Sentences of the Court of Justiciary when such are directed to take place within their bounds; a duty attended with considerable expense, and as to which some complaints have been made, on the justice of which we do not mean to offer any remark. A still more onerous duty is also imposed on burghs in the erection and maintenance of public gaols. In burghs of barony it has been held, that, except for the purposes of their own very limited jurisdiction, there exists no legal obligation of this kind; but in burghs royal, and subsisting burghs of regality, the obligation is imperative, both as an incident of their tenure, and by express statute; a burden which has, in many instances, become extremely oppressive. But on the important subject of gaols we shall take the liberty to offer some further suggestions in the sequel.

II. Imperfection of the present System of Burgal Jurisdiction, Civil and Criminal.

Imperfect Nature of Judicial Establishment.

Such being the nature and constitution of the various Jurisdictions exercised by burgal magistrates and officers, it might appear surprising that establishments so much at variance with all the principles of sound policy should have been so long permitted to exist, were it not that they have been falling rapidly into disuse. A court for the trial of civil causes to the extent already described, composed of judges drawn from the unprofessional ranks of the community, and fluctuating perpetually with every annual election, is, of itself, completely anomalous, and is evidently unfit for the steady and intelligent administration of justice; and the remedy which has in practice been resorted to, as a corrective of these defects, is in itself liable to weighty objections. It has been stated, that while the burgh magistrate continues, agreeably to the constitution of his court, to sit in judgment, he is in fact superseded in the adjudication of causes by another and irresponsible officer, being either a town clerk or a legal assessor appointed by the council, often during pleasure, and deriving his emoluments, in most instances, from the incidental and casual fees on judicial procedure. In addition to the evils naturally resulting from the precarious tenure of his office, and the ordinary sources of his official income, it is no inconsiderable objection that the town clerk is usually a person who has previously carried on the business of a solicitor or agent in the Burgh Court, and who still continues to do so in the court of the sheriff; and although his professional connexion with various members of the community may not be productive of any corrupt or unfair bias, it is in vain to disguise that at least in the smaller towns, and among a narrow population, he can scarcely hope to escape suspicion, however unjust, or to confer on the court the reputation of a pure and impartial tribunal.

Decline of Judicial Business.

It is mainly to these considerations that we must impute that rapid Decline in the Judicial Business of burgh courts to which we have alluded. As examples of this, taken at random from the local Reports, it may be stated that within the period of the last twelve or thirteen years the number of causes appears to have diminished in Aberdeen from 569 to 363; in Dundee, from 237 to 162; in Perth, from 75 to 8; in Stirling, from 108 to 58; in Dunfermline, from 22 to 2; in Inverness, from 134 to 42; and in Ayr the average has been 7 since 1820.

Objectionable Nature of Jurisdiction of Dean of Guild.

With respect to the civil Jurisdiction of the Dean of Guild, whether as exercised by a separate officer of that name, or by the ordinary magistrates, we have found that, excepting perhaps to a very limited extent, the official functions of that officer are not regarded as of any utility; and, looking to the state of those towns where no similar jurisdiction is known, no practical inconvenience appears to have been felt. Thus in the populous and thriving towns of Paisley, Greenock, Kilmarnock, and Falkirk, there never has been any officer having this peculiar duty of regulating the buildings, or protecting the public streets: and in the opinion of those best acquainted with the facts it has been found that the jurisdiction of the judge ordinary of the bounds was fully sufficient for the protection of both public and private property.

In some burghs, where a guild court exists, its functions have been so limited in practice as to place them in nearly the same situation with those just mentioned, where it never has existed at all. Thus, in the Report of Aberdeen, it is stated, that "The jurisdiction of the dean of guild is not so extensive as it usually is in other burghs. It is confined to inspection of weights and measures. The super-

intendent of works attends to the erection of buildings within the burgh, to see that they do not encroach on the streets, or on neighbouring proprietors. The police attend to nuisances and encroachments upon the streets, when the property is not the town's, in virtue of powers contained in the Police Act for the city, passed in 1829, the provisions of which are enforced by the magistrates and sheriff, on complaint of the procurator-fiscal for the city, the inspector, clerk, or superintendent of police. The dean of guild has no council of tradesmen." Jurisdiction.

In like manner, in several other considerable burghs, the dean of guild does not interfere, except on special complaints made, either by the neighbours, or by the procurator-fiscal on the part of the public. Hence in Inverness there have been little more than two cases yearly, on an average, in the dean of guild court, during the last 13 years. In Dumfries, as stated in the Report, "there is no dean of guild court."—"When proprietors suffer their tenements to get into a state of disrepair, dangerous to passengers, or encroach upon the streets or closes, the procurator-fiscal brings a complaint against the parties; and there is one case of this nature at present in dependence." And in Ayr "there is a dean of guild court held occasionally within the burgh; but it is not imperative on parties building within the town to apply for a warrant from the dean of guild; and it is only when disputes arise that a court is held."

On this head the case of Edinburgh is perhaps the most instructive. The town is composed of two distinct portions; the one within the ancient and extended royalty, the other situate beyond the liberties, and occupied by even a larger population than the former; the one placed under the protection of a guild court, the other under the exclusive jurisdiction of the sheriff. In contrasting the actual state of these different parts of the town, it does not appear that any disadvantage has been experienced from the want of a guild court. On the contrary, it has been stated to us that the jurisdiction of that officer within the royalty has been felt to be often vexatious and oppressive. Within the royalty no alteration of any building can be made without his express authority, even when all the parties interested are completely agreed on the propriety of the change; whereas, in the other portions of the town, as stated in the evidence of a respectable witness, "the making of alterations does not render any application to any court necessary, unless a dispute occurs; and he had never heard that such a state of matters gave rise to any inconvenience. He had often thought that it would be quite sufficient if parties were only required to apply for the intervention of the Court where a dispute really occurred; instead of being obliged, as at present, in all cases, to apply for a dean of guild warrant, even in the cases where all conterminous heritors have consented. He had seen a process about opening a storm window on the roof of a house, to which all the proprietors of the tenement consented; but, nevertheless, the dean, with his court, came down and visited the place, and a long extract was written out, which cost a deal of expense."—"We must take these extracts, whether we wish them or not."—"The chief interest that the public have in this court is the protection of the streets against encroachment, and the compelling of ruinous and dangerous property to be taken down; all of which, I think, might be matter of police. Questions regarding the taking down of old tenements, jedge warrants, and all questions at present competent to the dean of guild court, might be taken to the sheriff or burgh courts."

In the Criminal Business of the burgh courts there has been a Decrease still more remarkable than even in the civil department. Indeed, from various causes, which will be immediately explained, the magistrates, or other functionaries, in most of the burghs in Scotland, have evinced a desire to devolve this part of their duty altogether upon the sheriff, or on officers appointed under local Police Acts. Decrease of Criminal Business.

Thus, in Inverness, it appears that, in the 13 years prior to 1832, there have been only about four cases tried annually before the magistrates.

In Perth "criminal cases have been very rarely tried before the magistrates. For a number of years *there have been none*, unless there be ranked under this class a few applications, at the instance of the procurator-fiscal, for removing nuisances, or for breaches of the public regulations, containing pecuniary conclusions only."

In Stirling there were *no* criminal cases whatever carried on before the magistrates in the years 1829, 1830, and 1831; and there was only *one* such case in the year 1833.

In Dundee most of the petty offences committed within the burgh are now tried in the police court; and the *sheriff-substitute*, who has a *cumulative* jurisdiction

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with the magistrates, tries *the more important criminal cases.* In Ayr the jurisdiction of the magistrates, in criminal cases, "*is confined to petty breaches of the peace;*" and in the large burgh of Dunfermline there have been *no* criminal prosecutions at all before the magistrates between 1820 and 1833.

This diminution of criminal business, which has been gradually going on for many years, may be mainly ascribed to the faulty constitution of the burgh courts, so little qualified, by the usual condition of the judge, to conduct proceedings of so much delicacy and importance. This diminution of business appears to have been further accelerated by the attempts that have been made to mould their proceedings into a safer and less irregular form. By an order of the Court of Justiciary in 1827, already referred to, it was made imperative to bring all criminal cases before the burgh courts, with the same formalities as in the sheriff courts, or even in the courts of justiciary; in the observance of which, greater professional skill and greater expense are required than under the looser system formerly prevalent. The consequence has been that comparatively few such cases are now prosecuted or even investigated by burgh magistrates and functionaries, and that in practice the burgal jurisdiction in criminal matters has nearly ceased to exist.

Separate Functions of Burgh Magistrates and Commissioners of Police.

In the course of the last century another system of local jurisdiction has been gradually coming in aid of the ancient powers of Burgh Magistrates in criminal matters. In towns increasing rapidly in wealth and population it was felt that the expense not only of repressing graver crimes, but of checking the petty delinquencies against good police, could not be conveniently defrayed out of any common good which remained in the hand of the magistrates. Hence it was necessary to raise new funds for the purposes of police. But, as the town councils were not then chosen by the community, the inhabitants would not have submitted to new exactions to be administered by the magistrates and council under the old system, and therefore many of the towns obtained Acts of Parliament for administering the police under commissioners or trustees chosen by the community. Thus the city of Glasgow got the affairs of their police put under Commissioners by an Act passed in 1800 (39 & 40 Geo. III. c. 88). The city of Edinburgh followed the same course in 1805 (45 Geo. III. c. 21). And now a large proportion of the more considerable royal burghs and other towns in Scotland have the financial and civil departments of their police administered by commissioners and subordinate officers, chosen under special Acts of Parliament passed for that purpose, who, in raising and applying the requisite funds, are exempted from the interference of the magistrates. But, even under these local Acts, the powers of the magistrates in punishing delinquents, and in superintending the criminal department of police, remain unimpaired.

Under that system of burgal government which so long existed throughout Scotland, these appointments of extraordinary commissioners or trustees were proper, and indeed unavoidable. But a great change has recently taken place. The councils of all royal and parliamentary burghs are now chosen by the voice of the community. They have no longer any separate interests or feelings from those of the inhabitants; they are as much subject to the control of the electors as the statutory commissioners; and, being the original and proper functionaries for enforcing the rules of police, the whole of this department may be safely intrusted to them.

Disadvantages of Separation.

The Disadvantages of subdividing the administration of matters of police between town councils and parliamentary commissioners are abundantly obvious. The risks of collision between two such bodies are great; and the additional expense occasioned by two separate establishments presses hardly on the towns where that system has been adopted. Of this inconvenient and oppressive multiplication of offices and officers a striking example is afforded in the city of Glasgow, and its suburbs within the parliamentary bounds, where the business of burgal jurisdiction and police is subdivided among no less than eight sets of functionaries, all distinct and independent. For the ancient royalty, for Calton, for Gorbals, and for Anderston, there are separate magistracies; and for each of the same districts there is a police establishment, deriving its powers and authority from separate local statutes.

Functions of Magistrates and Commissioners of Police should be united.

The business of Police is, in truth, one of the most appropriate Functions of a Municipal Magistracy. The administration of the funds requisite for its support may be fitly intrusted to the same body which has the charge of the common good, and is now constituted by a popular election. To magistrates and town councils may be safely committed the power of imposing assessments for the maintenance of

a police establishment, whenever the ordinary funds are insufficient for that purpose. If in any of the larger or more populous towns the discharge of the duties of police magistrates, in addition to their other official functions, should be found oppressively laborious, we apprehend that a remedy, to be afterwards suggested, would be fully adequate for their relief. In thus proposing that the duties of general commissioners, as created by various police statutes, should be performed by the burgh magistrates, we do not contemplate as a necessary consequence the abolition of the resident commissioners usually authorized by these statutes, and as to whose election and peculiar functions we are not aware that any changes ought to be proposed. Jurisdiction.

Before leaving this subject, we think it our duty to remark that, in one important point of the criminal police, the arrangements are either ill defined, or not properly understood. Although the magistrates of burghs have the power of committing parties accused even of the highest offences, and though both by the common law of Scotland, and by a special statute before referred to, (8 Anne, c. 16,) they are authorized and enjoined to take cognizance of all crimes committed within their bounds, and to make all necessary investigations, and, of course, to take all precognitions required, nevertheless a large proportion of the burghs have totally evaded this duty, and left the precognitions to be taken by the sheriffs of the counties, and their procurators-fiscal, whereby the expense is thrown either upon the counties, or on the public funds in Exchequer. Duty of taking Precognitions should be regulated.

Perhaps, in the greater number of Scotch burghs, this is not to be regretted as a public evil; as in such places crimes of a heinous nature could not be investigated with such accuracy and precision by local functionaries, unaccustomed to the duty, as by an experienced officer like the procurator-fiscal of the sheriff. Even in burghs, however, of the greatest importance, such as Edinburgh and Glasgow, attempts have been made to throw the investigation of the more important criminal cases on the procurators-fiscal of the sheriff court; but these attempts have been resisted by the officers of the Crown.

III. Proposed Remedies of the present System.

From the details now given, it may be perceived that, in our opinion, great changes are necessary with regard to the civil and criminal jurisdiction intrusted to the magistrates of burghs.

We are unanimously of opinion that Burgh Courts, as tribunals of Civil Jurisdiction, ought to be abolished throughout Scotland. The inherent vices of their constitution admit neither of doubt nor of cure; and our suggestion is, in truth, merely an anticipation of what in most instances is likely to be effected by time; for, as it has been shown, the business of the courts in many burghs is in a state of gradual decay, and would probably at last be extinguished without legislative interposition. Civil Jurisdiction of Burgh Councils should be abolished.

In the more important burghs of Scotland there are sheriff courts already established, to which the inhabitants of the burgh, as well as of the county, may conveniently resort. In others, which have not this advantage, the want may be supplied by appointing sheriffs to hold circuit courts for small debts, from time to time, in every town of consideration. Transferred to the Sheriff.

In those burghs where there is not a resident sheriff-substitute an inconvenience might be felt from the abolition of a court in which at present there is a cheap and ready mode of procedure in matters requiring despatch, and therefore, in such places, the sheriff of the county should be empowered to appoint the town clerk, or any other competent person, to be a substitute, to the special effect of authorizing sequestrations and sales for rent, and granting warrants of ejection, deciding on the aliment of prisoners, their right to liberation under the Act of Grace, and under sick bills, granting warrants against parties *in meditatione fugæ*, and taking affidavits. But in all defended cases the proceedings should be immediately removed from the burgal substitute into the ordinary court of the sheriff.

In thus recommending the entire Abolition of the civil jurisdiction now possessed by Burgh Courts as Courts of Record, it follows, as an obvious consequence, that these courts can be no longer competent to the registration of deeds or instruments for the purpose of execution. It is by a sort of fiction, indeed, (but a fiction based on the existence of a civil jurisdiction,) that by a mere act of registration in the court books, such deeds and instruments are transmuted into decrees on which legal execution or diligence may forthwith proceed. Looking, therefore, to the practical Abolition of Burgh Registers.

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inutility of maintaining this fragment of burgal jurisdiction, even as now limited by the statute already quoted, and also to the very great difficulty of either restraining the reserved powers of registration within their prescribed bounds, or of enforcing a due execution of the duties, at least in all the burghs of secondary and inferior importance, it has appeared to us that the obvious theoretical inconsistency which must be implied in the continuance of this function in the clerks and courts of burghs royal would not be justified by any regard to the convenience of private parties; and we cannot, therefore, hesitate in recommending that the powers and privileges of registration for execution, as now existing, should entirely cease. Of course, the only courts competent for such registration would be the Court of Session, and the courts of the present sheriffs, and such additional courts of the same class as may hereafter be established.

If these recommendations should be adopted, and the courts of burghs abolished as courts of record, it would follow, of course, that it would no longer be competent to the magistrates to hold courts for the service of heirs on brieves from Chancery. This, however, would not interfere with their functions as bailies, in receiving and entering heirs succeeding to their ancestors in property situate within the burgh, and holden in burgage.

Edile powers of Dean of Guild to be continued under a modified form.

With respect to the jurisdiction of Deans of Guild, we feel no hesitation in recommending the abolition of their judicial powers in all defended cases, and the transference of that jurisdiction into the sheriff courts. At the same time it is evidently proper that it should be the duty of a public officer to watch over the public interests in this department, and to institute all necessary proceedings in the court of the sheriff for that purpose. In general, this may be fitly intrusted to the ordinary procurator-fiscal, or the superintendent of the police of the burgh; but in those large towns, where a more than usual degree of vigilance must be requisite, and where the duty has been hitherto executed by a dean of guild, we are of opinion that the *edile* powers of that officer, in a modified form, might be usefully retained. In either view we offer the following suggestions:—

Warrants for new Buildings.

It appears abundantly manifest that, in the far greater number of cases, the absolute necessity of a Warrant to enable a proprietor to make any the least change on the external structure of a Building might be dispensed with; but, at the same time, it must be admitted that, without some precautions, the interests of the public, as well as of private individuals, might be seriously affected. In all cases, therefore, where the erection of a new building, or an alteration on the external structure of a building, is intended, due notice, accompanied with the necessary plans, should be given to the public officer, as well as to the conterminous heritors; and if, within a certain fixed time after such notices, no formal step has been taken to interpel the proprietor, it ought to be competent for him to proceed in the execution of the work without any official sanction. But if any disapprobation of the plan should have been intimated to the proprietor by the public officer, within the prescribed time after notice, it should then be necessary to apply to the sheriff, by petition, for his warrant, it being the right of the public officer, as well as of the conterminous heritors, to oppose that petition. On the other hand, although no such disapprobation should have been intimated on the part of the public, it should still be competent, as at present, for any of the conterminous heritors, within the prescribed period, to apply to the sheriff for an interdict against the threatened operations.

Law relative to removing or rebuilding ruinous Houses.

There is another branch of the jurisdiction of the dean of guild which also requires some modification. The Removal of ruinous Houses in burghs has long been a matter of public police; and, by a statute passed in 1663, c. 6, it was provided, that where houses are ruinous and deserted during three years, the magistrates shall give notice to the owners to rebuild them; and, if they fail to do so within year and day, they shall cause them to be valued, and sold to any person who will buy them, and pay the price to the owners; and, if no one will buy them, they shall "cast down the said ruinous houses, and cause build the same of new; and his Majesty, with advice foresaid, declares that it shall not be lawful, in time coming, to any manner of person to pursue them nor their successors therefore, nor pretend any right or interest thereto, but that the said right shall be a perfect security to the builders thereof and their successors." The provisions of this Act have been hitherto enforced by the dean of guild, in virtue of his magisterial powers; but, in consonance with our preceding suggestions, it seems fit that his duty, in this respect, should now be limited to the power of instituting, either in his own name,

or in that of a procurator-fiscal, the necessary proceedings in the sheriff court, to which this branch of jurisdiction should be transferred. Jurisdiction.

We are further of opinion that the present law, with respect to ruinous tenements, is in several respects very defective; and complaints have been laid before us from different places on this subject. Defects, and Suggestions for future Regulations.

In the first place the Act 1663 only applies to ruinous houses which have been for a certain time uninhabited, and these are only directed to be pulled down and rebuilt within a year after notice; but we see no ground for these limitations. If it can be shown, to the satisfaction of the sheriff, that a tenement is in a state dangerous to passengers, whether it be inhabited or not, we apprehend that the judge ordinary should have power to direct it to be either pulled down or repaired by the proprietors, on a notice not exceeding one month from the time of inspection.

In the next place it has been urgently represented to us that the present law, as to the rebuilding of ruinous tenements within burgh, is defective in another point. When a tenement, divided among proprietors possessing separate floors of it, is thrown down as ruinous, or is consumed by fire, there is no law for having it rebuilt on a modern plan, or on any plan, without the consent of the whole proprietors, which is often withheld from motives of extortion or caprice. In order to remedy this inconvenience, it should be provided that when a common tenement falls into decay, or is destroyed, it should be competent to any of the proprietors to apply to the sheriff to have it rebuilt on a plan suitable to the style of building prevalent in the neighbourhood, at the expense of the proprietors, and in proportions equal to their interest in the old tenement; and if the parties cannot agree on the plan, or if any of them be unwilling to incur the expense of rebuilding, the subject should be brought to sale by public roup, at such price, and on such terms and conditions, as the sheriff, on the report of impartial men of skill, should fix.

Lastly, we are of opinion that the privilege which parties at present have of disbursing sums in the rebuilding or repairing of tenements within burgh, and of having them secured by jedge and warrant, should be continued; but that such warrant, when required, should be granted by the sheriff.

The abolition of burgh courts may, in some cases, give rise to claims for Compensation on the part of the present Clerks; for which, however, due provisions cannot be properly suggested, until the whole of the connected system of burgal and county jurisdiction has been finally arranged. Compensation to Town Clerks.

We have already suggested the propriety of placing the administration of burgh police entirely in the hands of magistrates and town councils; and in reference to the criminal jurisdiction now vested in magistrates, we are farther to recommend that it should be strictly limited to that which is indispensable in every effective system of local Police. Without venturing to anticipate all the regulations on that head which might thus become necessary, and which ought to be embodied in a general statute, defining the powers and duties of magistrates and councils in matters of police, we would beg leave to suggest the following:— Criminal Jurisdiction limited to matters of Police.

1. That, in punishing delinquencies, their powers shall be restricted to the imposition of fines not exceeding £5, and to imprisonment not exceeding 30 days. Suggestions.

2. That it shall be in the power of magistrates and town councils to appoint a police magistrate to be paid by salary, and not to be removeable except with the consent of the Lord Advocate; or alternatively to devolve their powers as police magistrates on a sheriff-substitute, appointed in the usual manner, and for whom a salary has been provided by them from the funds of the burgh.

3. That police magistrates or sheriff-substitutes, so appointed, shall have power to punish delinquencies by fine not exceeding £10, or by imprisonment not exceeding 60 days.

4. That the powers of magistrates to arrest persons accused of crimes, to take precognitions in cases of urgency, and to commit for examination, or till liberation in due course of law, shall remain as at present.

With respect to the Expense incurred in taking Precognitions, and in prosecuting offenders, we have already alluded to the evasion of that burden by many of the smaller burghs. Some new and effective regulations on this subject are obviously required, for the purpose of distributing the burden between the burghs and contiguous counties upon clear as well as equitable grounds. In counties these expenses are provided for, under the name of rogue money, by an assessment on valued rent; in burghs there is no appropriate fund, and such expenses fall on the common good. Under the modified system of criminal jurisdiction which we have Regulations relative to Expense of Precognitions.

Jurisdiction.

ventured to recommend there can be no doubt that all expenses attending the investigation, prosecution, and conviction of offenders by the magistrates of burghs, ought to fall on the same funds that are provided for the police establishment. On the other hand, where offences, although committed within burgh, are ultimately prosecuted in the court of the sheriff, the expense attending the investigation and punishment of such offences should be paid, as proper county cases are at present, from the rogue money; but to that fund the burghs ought to contribute a fair proportion, corresponding to the relative estimate of real property in burghs and county. In some cases, as in Edinburgh and Glasgow, it is probable that some peculiar arrangements on this subject might be found necessary.

Cities of Edinburgh and Glasgow should be erected into Sheriffdoms.

The preceding suggestions as to the transference of the greater part of the jurisdiction, civil and criminal, now vested in the magistrates of burghs, to the sheriff courts, are generally applicable to all burghs; but it remains for us to state that in the Cities of Edinburgh and Glasgow a peculiar provision has appeared to us to be necessary. In these two cities the extent and importance of the judicial business, which would otherwise be accumulated in the court of the sheriff, could scarcely fail to retard the regular and orderly administration of justice in a degree highly injurious to the interest of private parties as well as of the public. For that reason alone, as well as in the view of encouraging an honourable competition between the county and burgh courts, it appears to us highly expedient, if not indispensable, that in each of those two cities a judge should be appointed by the Crown, having, within the parliamentary boundaries, a jurisdiction cumulative with that of the sheriff of the county in civil cases, and exclusive in criminal cases. To these two additional sheriffs, as they properly enough may be denominated, should be superadded one or more substitutes, as the state of business may be found to require; and we are farther of opinion that the salaries of these judges should be defrayed by the public in the same manner as those of sheriffs in the counties. This we beg leave to recommend as a mode of remuneration greatly preferable, on public grounds, to any system of payment by the dues of court accumulated into what has been denominated a fee fund.

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4. Management of Gaols.

Magistrates must uphold the Gaols of Burghs.

The Magistrates of Burghs are the keepers of the prisons within burgh, the legislature having, at an early period, imposed on the burghs of Scotland the establishment and upholding of Gaols as one of the chief burdens on the common good.

Act 1597, c. 277.

By an Act of King James VI., (Parliament 15, c. 277,) it was ordained, "that within the space of three yiers, in all burghs within this realm, there be sufficient and sure jailles and warde-houses biggit, uphalden, and mainteined by the said provost, bailies, councill, and communities of the said burghs, *upon their awin common gude, or otherwayes upon the charges of the burgh.*"

In his observations on this Act, Sir George M'Kenzie adverts to the origin of this burden in the following terms: "Boroughs having great freedoms and privileges from the King are therefore obliged to have sufficient prisons for receiving such as are attached for crimes and debts."

Inherent Evils of the existing System.

In many burghs the common good has been so wasted, that their funds have, in later times, been insufficient to maintain gaols in a proper condition, and in some burghs their state is highly discreditable; they are neither secure nor healthful places of confinement, nor placed under charge of proper gaolers.

Some of the burghs have let their gaols go entirely to decay, and this throws an additional burden on the neighbouring burghs. It is complained in Dunfermline, that, from the insufficiency of many of the other gaols in Fife, an undue proportion of prisoners is thrown upon that burgh. Brechin complains of the want of a gaol at Inverbervie; and at Haddington it is said that the town's funds are burdened not only with the custody and maintenance after trial of the prisoners belonging to its own district of the county, but of those who ought to be confined at Dunbar, which, being a royal burgh, is bound to have a proper gaol, and yet has none in which criminals or debtors can be confined.

The number of prisons has tended to increase the evil, as every royal burgh and burgh of regality had a gaol. In the smaller burghs the magistrates were not qualified to frame proper regulations as to prison discipline and accommodation, nor had they funds to enforce that system which more enlightened views, and the more extensive resources of larger communities, have ultimately secured; on the

contrary, they often had an interest to maintain the establishment in the meanest and most unsuitable manner, in order to save extraordinary expense to the community. JURISDICTION.

The wretched condition of the Scotch gaols has, at successive periods, engaged the anxious attention of Parliament; but we regret much that the success has been greater in discovering the evils than in devising appropriate Remedies. Thus, in 1818 and 1819, a Committee of the House of Commons was employed in carefully investigating the subject; but the only result of their labours was the passing of the Act 59 Geo. III. c. 61, by which the commissioners of supply in counties were authorized to assess the whole landed and house property in the counties, in such sums as they might think necessary, to assist royal burghs in rebuilding gaols which have fallen into disrepair. But this Act is very defective in its provisions. It only applies to the rebuilding of gaols in their old sites, however incommodious; and it is not imperative on counties to give any sum whatever, even for that object. Attempts to provide a Remedy.

In the year 1826 the attention of Parliament was again attracted to the subject of gaols; and a Committee was named, which examined the sheriffs of some of the largest counties in Scotland, and got returns from the sheriffs or sheriff-substitutes of all the counties as to the gaols, and returns from several magistrates of burghs and superintendents of police. The Committee also obtained returns from the several burghs as to their free revenue, for the purpose of ascertaining how far they could afford the expense of an improved system; and the Committee afterwards reported as follows: "The result of this inquiry has, in the opinion of your Committee, been to show that, with a few exceptions, the state of those prisons *is very defective in point of security, accommodation, and management*, while the funds from which such prisons ought to be improved are, in most instances, inadequate to that purpose.

"It seems matter of regret that so little advantage has resulted from the inquiries into the state of Scottish gaols which were made in Parliament in the years 1818 and 1819, followed by the Act 59 Geo. III. c. 61, which enabled counties to give aid to burghs in enlarging and improving their prisons; and, under such circumstances, it appears to your Committee that it is no longer a matter of *choice*, but of *necessity*, that a speedy and effectual remedy should be applied *to an evil of such magnitude*.

"Impressed with the belief that no prison can be properly constructed or regulated unless it be of considerable size, it has occurred to your Committee, as a matter meriting much attention, whether it would not be expedient that gaols should be erected in certain districts of Scotland, calculated for the custody of prisoners under criminal warrants when subjected to imprisonment of some duration. As the assizes are not held in every county of Scotland, but solely at what are termed circuit towns, (to which towns prisoners not only from the counties in which such towns are situated, but from those of several adjoining counties, are brought for trial,) it is sufficiently apparent that such circuit towns would naturally form the most proper sites for these prisons, and that the counties from whence prisoners are so brought for trial would constitute the districts for whose prisoners such gaols would respectively afford accommodation."

Notwithstanding these suggestions, no further steps were taken towards an improved system till 1829, when an Act was passed, (10 Geo. IV. c. 54,) proceeding on a recital of the incommodious and insecure state of the gaols in Scotland, and directing Reports to be drawn up by the magistrates of burghs, and committees of the justices of peace, and transmitted within a certain period to the Secretary of State, in which the reporters were directed, *inter alia*, to set forth, under separate heads, 1st, the number of apartments in each gaol; 2nd, the number of prisoners then in the gaol, and the greatest number at any time for a year preceding; 3rd, the classification made, if any; 4th, the extent of airing-ground; 5th, the number of keepers and under-keepers employed; 6th, the gaoler's place of residence; 7th, at whose expense the prisoners were alimented, and the allowances made for the same; and, 8th, the sufficiency or insufficiency of the prison. In pursuance of that Act many Reports were transmitted to the Secretary of State, and were printed by his order in July 1830. Reports under authority of Statute.

But still no steps have been taken for improving the condition of prisons, and of prison discipline, in Scotland; and we feel it our duty to report to your Majesty that the gaols in many of the burghs are still in a state utterly unfit for the reception and detention of prisoners. No Remedy hitherto provided.

JURISDICTION.

Examples of existing Evils.

Thus, in the Report on the burgh of Dundee, it is stated that "the gaol was crowded with prisoners, and in the most loathsome state. It is much too small for such a town, and is quite incapable of affording proper accommodation for the number of prisoners likely to be committed to it. In consequence of a complaint made by the Lord Advocate to the Court of Justiciary, the magistrates of Dundee have fitted up temporary accommodation for some of the prisoners, which so far relieves the gaol; but a new gaol, or a total alteration of the present, is indispensable."

In like manner, at Whithorn, the gaol "is under the worst regulation possible. The town-house and gaol form a considerable building, notwithstanding which *the gaoler does not reside within the gaol*, but at some distance; the spare rooms being fitted up as *shops*. In consequence of the absence of the gaoler, (who was said to be employed at his harvest in the neighbourhood, and who *declined* to attend, though sent for,) the reporter could not get access to a low apartment or vault, in which a maniac is confined for life, under sentence of the High Court of Justiciary, for killing a man." "The person sent to officiate for the gaoler broke the key in endeavouring to open the door; but, in so far as any opinion could be formed from its external appearance, the vault was of the worst description."

The reports on the burghs of Annan and Irvine also show that large portions of the buildings in these towns which contain the prisons are fitted up as shops, and let for hire, though the gaols are often crowded, so that the means of rendering the prison more commodious and secure, and of separating and classifying the prisoners, are sacrificed to swell the revenue of the burgh.

Sometimes no gaoler or under-keeper is resident within the gaol during the night; but the prisoners are locked up, and left to the mercy of any accidents which may occur, for eight or ten hours, in a thinly-inhabited town. This is the case with regard to the gaols of Lochmaben, Annan, Whithorn, and numerous other prisons. And it is matter of notoriety, that, in 1833, a fire took place in the gaol of Tain, when there was no keeper within the gaol who could relieve the prisoners, in consequence of which two prisoners were burned to death.

It may be added that, during the last three years, there have been four complaints made by his Majesty's Advocate to the Court of Justiciary of incommodious and insecure gaols in different burghs.

It is proper also to observe, that in hardly any of the gaols has a proper classification been attempted.

In some oppressive exactions are made from prisoners for debt, in the shape of fees. Thus, in the gaol of Nairn, the regulations framed by the magistrates in 1833 allowed a fee of 4*d. per diem* to be charged by the gaoler against each debtor; and, in one case brought under our notice, they only allowed a debtor 6*d.* per day of aliment, subject to 4*d.* per day of fees ultimately chargeable against him. This very diminished rate is said to have been fixed because the magistrates were of opinion that the prisoner, in contracting the debt for which he was incarcerated, was guilty of a fraud.

In Glasgow it appears that the magistrates make a considerable profit by the retail of porter and ale to the prisoners. Although, probably, in that great city, this custom originated from the laudable motive of giving unadulterated liquors to the prisoners at a reasonable rate, the practice, in point of precedent, is so improper and dangerous, that it ought to be strictly prohibited.

Suggestions for future Regulations.

Without pretending to have made a complete and searching inquiry into the actual state of gaols, but having had many such facts brought immediately under our observation, we are induced very earnestly to recommend an entire change in the system of prison accommodation and discipline in Scotland. In a proper system, the regulations must probably be varied according to the circumstances of the different districts; but we presume to offer the following general remarks on the subject:—

1. We would, in the first place, beg leave to recommend, as by far the most important preparative to a better system of management, a very great diminution in the number of prisons for the purpose of penal confinement. We are inclined to think that, for the whole of Scotland, four or five district gaols, conveniently situated, would be amply sufficient, and would certainly admit of a system of internal regulation more perfect than can be attained in those of a comparatively very small class now existing in counties and burghs. Even in the most extensive and populous counties, we hold it to be manifest that more than one gaol cannot be usefully maintained; and of the smaller counties, a union of three or

four for the maintenance of a single gaol would be highly expedient. The petty existing gaols ought to be employed only for very short confinements *in modum pœnæ*, and for the detention of parties accused till they are committed for trial, when they should be transmitted to the larger gaol of the district. JURISDICTION.

The most satisfactory testimony in favour of the establishment and good management of gaols upon a large scale is to be found in the Report on the city of Glasgow. The bridewell of Glasgow was erected in 1823 and 1824, at the expense of £25,000, and there are usually confined in it upwards of 300 prisoners, who are properly classified, and kept to hard labour. In the Report of the justices of the peace of Lanarkshire, in 1829, it is stated that there is room for 16 classes of prisoners, each male prisoner having there a separate cell; and only in a few instances were two females put into the same cell. In 1834 there were 1,967 committals; and, though the daily average number of prisoners in confinement was not less than 320, yet the whole cost of the establishment for that year was only £590 10*s.*, being at the rate of about £1 17*s. per annum* for each prisoner. There cannot be a more satisfactory proof of the great public advantage which would follow, both in point of economy and discipline, from the abolition of small gaols, and from having places of confinement on such a scale as would ensure a superintendence of the most efficient and respectable kind.

2. Each gaol for permanent confinement in a burgh should be under the charge of a keeper, appointed jointly by the chief magistrate and sheriff. The gaoler should be obliged to reside in the gaol. The head gaoler, and all his assistants, should be removeable at the pleasure of the sheriff and chief magistrate.

3. When the situation and number of district gaols are determined, a well-digested system of regulations should be prepared for the classification of prisoners, their employments, the duties of the gaoler and under-keeper, and the visitation and superintendence of magistrates. Into any minute details of this kind we are not prepared to enter.

4. No fees should be exigible from imprisoned debtors. These were abolished in England by the Acts 55 Geo. III. c. 50, and 56 Geo. III. c. 116.

5. It appears to us inexpedient to render magistrates or burghs liable for the debts of civil prisoners who escape, excepting in cases of actual connivance, or gross and inexcusable negligence; but the governors or head keepers should be answerable for every escape arising from any neglect of duty on their part, and should find security, to a limited extent, besides being liable to punishment.

Suggestions as to mode of imposing Assessment for Gaols and Rogue Money.

The ultimate effect of these regulations would probably be to diminish considerably the expense of upholding prisons. But there might be occasion for some new enactments, as to the expense of apprehending, detaining, maintaining, and transmitting criminal prisoners to the district Gaols. The burghs, being relieved from the expense of permanent gaols and gaolers, could, in many instances, afford a considerable contribution to the district gaol; or it might probably be expedient to levy the annual expense of that gaol on the whole real property in the counties and burghs within the district, taking such rule of valuation, as to each, as might be thought equitable.

It has been shown before that the Rogue Money Act (2 Geo. I. c. 26) is, in some respects, defective, or inapplicable to the numerous commitments in later times, as it only authorizes the assessment of real property according to the valued rent, and only applies to the expense of apprehending and subsisting prisoners till conviction, and of prosecuting them in due course of law. We are inclined to think, on the one hand, that houses, and real property in burghs, should be liable in a part of the expense now laid exclusively on the landed property within the county; while, on the other hand, the latter description of property should bear a proportion of the expense of maintaining offenders in gaol, after conviction, as well as before it. When an improved system is adopted, we trust that this will not be a burden on any county, of material amount. It would certainly be of no consequence, when compared with the important gain to the police and morals of a district, by an improved system of prison discipline. But on the whole, and looking to the vast importance of an improved system, we beg leave to state it as our decided opinion that the erection and maintenance of proper prisons for permanent confinement should be defrayed, not by local and partial assessments, but solely at the public expense.

IV.

PATRONAGE.

The Patronage which belongs to the magistrates and councils of burghs extends to numerous offices, some of which are of great importance. It has been derived from various sources.

I. Offices, Civil and Ecclesiastical.

Treasurer, Clerk, &c.

From the nature of the functions, administrative and judicial, of magistrates and councils, certain officers are indispensable,—a Treasurer or Chamberlain for managing the pecuniary affairs of the burgh; a Clerk to record their proceedings, and assist them in their judicial duties; and officers to execute their mandates and enforce their decrees. The appointment naturally devolved on those whom they served; and, accordingly, in all the burghs, such offices are in the gift of the magistrates and council. When other civil offices were found to be necessary, the magistrates and councils of course named the officers. The appointment to some offices, created by statutes, has also occasionally been committed to them.

Schools.

In almost every burgh Schools have been founded for instruction in the ordinary branches of education, and sometimes on a more enlarged scale. They were, in general, endowed, though but slenderly, out of the funds of the burgh; but sometimes they were established by individuals who bestowed the right of appointing the teachers on the magistrates and council.

The late Dr. Andrew Bell, a native of St. Andrew's, and the well-known author of what is termed the Madras system of education, appropriated no less than £120,000 of Bank Annuities for the establishment and support of a college and school in his native city, and of schools in the cities of Edinburgh, Glasgow, and Aberdeen, and in the towns of Leith and Inverness. He also appropriated his landed estate of Egmore to a similar establishment in Cupar. In some instances these donations were intrusted to magistrates and councils, as in the cases of Edinburgh and Glasgow; and in these trusts is implied the patronage connected with such establishments as may be formed.

Universities.

With regard to Universities, none of the burghs of Scotland possess any patronage, with the exceptions of Aberdeen and Edinburgh. The magistrates and council of Aberdeen are patrons of the professorships of mathematics and divinity in the Marischall College of Aberdeen. The magistrates and council of Edinburgh not only have the right of appointing the greater number of the professors in the university of that city, but they are patrons of the university itself, and are entitled to make regulations for its internal government. In particular, it has been finally decided by the Court of Session that they have right to regulate the studies to be pursued in the university, and the course of study for obtaining degrees. These powers have not been allowed to lie dormant. The patrons have, from time to time, established new professorships; they have prescribed the course of study necessary to obtain a medical degree; and they have altered the fees payable by students on their matriculation.

Bursaries.

Connected with the universities there are various Bursaries or scholarships, which have been founded to enable students to prosecute their academical education. These were founded sometimes by the magistrates and councils of burghs, and endowed out of the common good, but in most instances by benevolent persons, who intrusted the patronage to the burgal government of the place.

Ecclesiastical Patronage.

In a number of the burghs the magistrates and council are Patrons of the Churches belonging to the establishment. Their right of patronage partly flowed from grants by the Crown, and partly arose from the endowment of churches by the magistrates and council themselves. The increasing population and prosperity of Scotland have led to the extension of this kind of patronage. Thus, in Perth, when the right of church patronage was, in 1604, conferred on the burgh, there was only one church and parish, but there are now four churches and parishes; and the appointment of all the clergymen belongs to the magistrates and council. In like manner, when the patronage of the churches of Edinburgh was granted to the magistrates and council, there were only four churches and parishes. Subsequently the number has been gradually increased; and there are now thirteen churches and parishes, and eighteen clergymen, who are appointed by the magistrates and council.

In a few burghs there are hospitals and mortifications, as they are called, for the aid or support of age and infancy, and the treatment and cure of the diseases of the indigent poor, the officers of which are named by the magistrates and councils. Patronage.

II. Alleged Abuses of Patronage.

When it is considered in what hands all this Patronage, so great in the aggregate, has been placed for centuries, it is scarcely to be doubted that it must have been often abused. Without meaning to deny that men of integrity were to be found in the councils of burghs, the tendency of the system of self-election was to introduce many of a different character, disposed to employ the powers with which they were intrusted, less for the public welfare than for the benefit of themselves and their relations and dependents.

But, however feeble the restraints imposed by law, there must at all times have existed checks which were not devoid of efficacy. To say nothing of the exertions of honest councillors, popular opinion never could be without its influence,—an influence which has increased during the last half century, and is still increasing. In some cases other causes operated to prevent or lessen abuse. Thus, if incapable teachers were appointed, instruction would be sought from other quarters. If clergymen, unfit for the duties of their station, were presented, the churches would be deserted, and the desertion would have a sensible effect on the revenues of the burgh; a consideration of great weight in these latter times, when so many burghs were approaching to a state of embarrassment.

These considerations, doubtless, formed strong barriers against the abuse of patronage, especially in relation to those classes of public teachers whose merits and demerits came directly and immediately under public cognizance. They were less effectual with regard to offices more peculiarly connected with the magistrates and councils themselves, and attracting less observation, of which one or two instances may be given.

The office of Town Clerk is very important. It has hitherto been his duty, not only to record the proceedings of council, but to act as adviser in their affairs, and to discharge the functions of a judge in the Burgh Court, the bailies or nominal judges merely authenticating, by their signature, the decrees of the court. Yet the pre-eminent importance of these functions has not always secured the exercise of this part of burgal patronage from gross abuse. Thus, in the burgh of Forfar, a boy, the son of a leading member of the council, was, in 1803, appointed to the office of town clerk; and in an action brought, in 1822, for his removal, it was proved that this person had, from his early years, laboured under mental imbecility; but, having received his appointment *ad vitam aut culpam*, it was found that he could not be removed. Nor is this a solitary instance. The mischief has been more or less felt in other burghs. In Fraserburgh, which is a burgh of regality, and possesses a good harbour, the Commissioner who visited the burgh found the town clerk to be a boy about fourteen years of age, who, it appears, had also been appointed joint clerk of the harbour trust. He was, and still is, an apprentice of the bailie of Fraserburgh, who is a writer, and chairman of the harbour trust; and he was little more than twelve years of age when he received his appointment to the harbour trust, along with another youth, also in the service of the bailie, in which capacity they have important duties to perform, involving a high degree of responsibility. Town Clerk.

It is a different species of abuse, and not necessarily peculiar to the old system, that Offices at the disposal of the councils were made the subject of Sale. This evil, which made the requisite qualifications for the office a subordinate consideration, is now little known, yet still some instances are to be found. Thus, for example, the present town clerk of Leith paid £1,200 to the magistrates and council of Edinburgh for his appointment to that office. But this blameable mode of exercising patronage is now so rare, that it would be hardly worthy of notice, were it not that, in the embarrassed state of many of the burghs, the sale of offices might be sometimes resorted to for the special purpose of meeting their exigencies. Sale of Offices.

III. Proposed Regulation of Burgal Patronage.

While the former constitution of burgh councils remained in vigour, it would have been difficult, and perhaps impracticable, to make such Regulations for pre-

PATRONAGE.

venting the abuse of patronage as might not have been evaded, in many instances, with success, and in almost all with impunity. But the Act of his present Majesty, which gave the right of electing councillors to a respectable portion of the inhabitants of burghs, has necessarily produced some change with regard to patronage. The responsibility of the councillors to the electors, and the publicity of their proceedings, probably afford an additional security against any gross perversion of power.

To deprive councils of any branch of their patronage is a measure which cannot be advised without reluctance. Still, however, as patronage is a trust placed in their hands for the public benefit, if it shall appear that, from the nature of certain offices, or the composition of councils, the latter cannot beneficially exercise the right of appointment, that right ought to be transferred to persons better qualified to discharge the trust. In other cases, where the right of patronage may be sufficiently guarded by regulations against abuse, it ought not to be withdrawn or disturbed.

No Councillor to be eligible.

There is one general provision applicable to every branch of burgal patronage, which we would beg earnestly to recommend. It is, that no Councillor should be eligible to any office, place, or appointment, in the gift of the council. As this, however, might be evaded by the immediate resignation of the office of councillor, or by other confidential arrangements, it might not be inexpedient to declare that such person shall remain ineligible for one year after he has ceased to be a member of the council.

This disqualification of councillors would not, however, be of itself a sufficient security against possible abuse; and, in order to judge how far the patronage at present held by councils should remain with them, and under what conditions it should be exercised, it is necessary to advert more in detail to the offices in their gift. These have been already stated; and, following the order already adopted, offices purely civil come first under consideration.

1. *Patronage of Civil and Municipal Offices.*

The appointment of the immediate servants of magistrates and councils, and, in particular, of the officers employed in conducting, or aiding in the exercise of, their various functions, is well placed in their hands; nor does there seem any ground for divesting them of it. In general, it seems expedient that Appointments should be Annual, or during Pleasure, in order to secure the due subordination and dependence of the officers on their employers, and to keep the offices constantly filled with persons qualified to discharge their duties.

Appointments should be Annual, or during Pleasure.

The functions of a town clerk, as formerly explained, have been hitherto of great importance, especially in the larger burghs; and as he was practically the judge in civil causes, this alone must have suggested the propriety of his appointment *ad vitam aut culpam*. If, however, the jurisdiction of magistrates shall be abolished in the manner and to the extent we have recommended, and if the maintenance of a register of deeds shall be also dispensed with, there seems little reason for making this office an exception from the general rule of annual election. Its functions will, no doubt, still continue to be of serious importance and responsibility, but we apprehend that the continuance or removal of their clerk might then be very safely intrusted to the discretion of the council.

Provisions relative to Life Appointments.

In relation to offices conferred during pleasure, or from year to year, no precautionary regulation seems requisite; but in Appointments for Life, or a term of years, (if any such be deemed advisable,) it is important to guard against precipitation, and give a sufficient time to enable candidates to come forward, and councils to examine their qualifications. It may therefore be provided that no election to such offices shall take place till three months have expired after the occurrence of the vacancy.

2. *Ecclesiastical Patronage.*

No Alteration upon Patronage of Churches or Hospitals.

The Patronage of Churches, belonging to magistrates and councils, could hardly fail, under the old system, to be sometimes abused. The influence of a leading member of council, and, still more, political considerations, occasionally prevailed; but, on the whole, it does not seem to have been exercised in a more objectionable manner than the patronage which has been held by other lay patrons. As burgh councils are now constituted, there is less danger of abuse. They must always, for their own sakes, be disinclined to appoint incompetent ministers; and in those cases where they pay the stipends, while, on the other hand, they draw

the seat rents, it is of importance that the clergymen should not be unpopular, since the burgh revenue must suffer exactly in proportion to their unpopularity. So long, therefore, as the law of patronage continues on its present footing, we see no reason for taking the right of presentation to burgh churches from magistrates and councils. PATRONAGE.

The Patronage of Hospitals and other charitable endowments, which is intrusted to magistrates and councils, is usually regulated in its exercise by the will of the founders.

3. *Academical Patronage—Schools and Universities.*

With regard to the Patronage of Burgh Schools, it does not appear that it can be placed in better hands than those of the councils, as now modelled. The office of a schoolmaster is one of great labour, and very moderate emolument; and the amount of that emolument is affected, in no inconsiderable degree, by the talents and exertions of the teacher. The motives which, in many other cases, are apt to mislead the electors, have here, comparatively, very little chance of operation. Patronage of Burgh Schools to be continued.

The only Precaution which seems requisite is to prevent hasty choice, by providing, as in the case of permanent civil offices, that no election shall take place till three months after a vacancy has happened, and that sufficient public notice be given of vacancies. Precautionary Regulation.

The Patronage of offices in the Universities, and their internal management, give rise to a more important and difficult question, not only from the higher rank and greater value of those offices, but because the exclusive right enjoyed by our universities, of granting degrees, and educating for several professions, renders it of the greatest moment that their teachers should be well chosen, and that the regulation of their course of study should be in the best hands. Town Councils should be deprived of the Patronage of Professorships in Universities,—and Reasons.

The council of the city of Edinburgh, ever since the foundation of its university in the reign of James VI., has, with a few exceptions, exercised the right of patronage of all the offices of that institution. It has also exercised an extensive control in regulating the fees, fixing the course of study, establishing new professorships, and generally in the whole internal government of the college.

We have felt it incumbent on us to consider how far that body is well qualified to discharge such duties; and, in the event of its appearing defective, whether it is so much so as to render it prudent to recommend the adoption of a new, and necessarily an experimental measure, in the room of established usage.

In endeavouring to arrive at a satisfactory conclusion upon this subject, we have availed ourselves of the information of many members of the university of Edinburgh, and we have collected the opinions of a great number of gentlemen of scientific or professional eminence unconnected with that institution. We have also unavoidably adopted certain views, from our own observation, of the system of college patronage and discipline, and its operation and effects.

The opinions of the professors upon this point are not so consistent or decided as to afford the ground of any safe conclusion; and several of the other persons examined have been too much connected with the system of patronage, as hitherto administered, to entitle their opinions to the consideration they might otherwise deserve. But the facts stated by all the gentlemen examined are of much importance, and the opinions and suggestions of many of them must be received with the greatest respect.

Several of the professors, and a late chief magistrate of the city, were of opinion that the university patronage, however faulty the system may be in principle, has hitherto, on the whole, been well administered, and that it ought not to be taken from the town council, because it could not be so advantageously placed in any other hands.

Others of the professors, and eminent persons not connected with the college, are of opinion that the patronage has been ill administered, and that the town council is a body not well fitted for its due exercise.

After much consideration, we are of opinion, though not unanimously, that this last view should be adopted, and shall, as briefly as possible, explain the grounds upon which we have come to this conclusion.

The opinion that the Edinburgh system of university patronage has worked well arises, we conceive, from the want of any tolerable standard or example in this country from which to form an estimate of the manner in which the duty of patrons of an university ought to be discharged.

The town council of Edinburgh, consisting of thirty-three members, is, in our opinion, too large a body to discharge, with advantage, the duties of patrons of

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literary and scientific offices. So great a number cannot possess that unity of purpose which would enable them to anticipate a canvass, and at once fix on the most eligible person to fill each vacancy. Such we consider to be the duty of university patrons, and we esteem the allowance of a canvass for an office in the university, however conducted, to be in itself an evil. In a body so numerous, divisions are apt to arise which cannot fail to obstruct the fair estimate of the merits of rival candidates. But, above all, the feeling of individual responsibility is destroyed, where a good appointment can reflect little honour, and a bad one is not felt to throw disgrace upon any one elector.

Under the former constitution of the town council, a great majority of the members were usually merchants and tradesmen, but little qualified, by education, to be themselves very competent judges of the literary or scientific qualifications of others. From that cause also, as well as from their number, they were peculiarly open to the influence of personal solicitation, and of local prejudice and prepossession. Even under the present constitution of the council, the qualifications which are likely to recommend individuals to the choice of their fellow-citizens as town councillors are, in most cases, rather those which would fit them for taking an active part in the ordinary business of life than such as are calculated to render them suitable patrons of an university, and, indeed, their competency for the discharge of that particular duty will probably be little regarded. The fluctuating nature of the body is besides very unfavourable to the steady and consistent administration of this important trust; and the political feelings which are so apt to influence their own appointment are but too likely to affect the course of their conduct in matters which ought, of all others, to be exempted from their operation.

Notwithstanding the manifest defects and vices of the system, it must be admitted that many men of distinguished eminence have been placed in the chairs of this university, and that it has acquired, and hitherto preserved, a respectable character as a seminary of learning and science. This, however, must not be attributed to any excellence in the existing system of patronage and administration; but is partly owing to the state of medical education in the great universities of England, partly to the exclusion of Dissenters from those establishments, and, perhaps, above all, to the existence of a system of patronage and management still more objectionable in the other universities of Scotland. In the words of one of the gentlemen examined,* "it is the greatest possible mistake, though a very common one, to suppose that the success of the university has been owing to this mode of election. Its chief celebrity has been during the last century; and the rise of Scotland, for the hundred years that succeeded the union, was so irresistible, not only in learning, but in every thing, that the greatest abuses might have existed, and did exist, and yet the country flourished. I have heard it stated, by the highest persons, and in the highest places, that the agricultural and commercial prosperity of Scotland was owing to the exclusion of the people from any share in the representation; and no doubt these two things, namely, their exclusion and their prosperity, did co-exist; so did the prosperity of the university and the election by the magistrates; but there was probably no system of election that could have been adopted, at that particular period of our history, under which many good professors would not have arisen in the metropolis." "It is a much truer test of the excellence of any elective system to look to the number of ill-qualified persons who have been chosen, while well-qualified ones have been rejected. A single flagrant case of this description shows the true tendency of the system better than many right appointments. It would be indelicate to illustrate this view by examples; but I am confident that the facts would amply illustrate and condemn the scheme of placing such elections in any body constituted like the magistrates of Edinburgh. No one who has lived long here can have any difficulty in applying these observations."

We have not thought it proper to take evidence with regard to particular cases of ill-bestowed patronage, as this could not be done without injuring the feelings of individuals, and the admitted and notorious circumstances connected with its administration have appeared to us fully to warrant the conclusions to which we have come.

The cases are very few in which the patrons have made offer of a vacant chair to any person, however eminent, who had not solicited their support. In no case that has come to our knowledge has the town council elected a foreigner, or an Englishman; and the instances are comparatively few in which persons, not previously con-

* Mr. Solicitor-General Cockburn.

nected with Edinburgh, have been successful in obtaining professorships. Candidates, connected politically or personally with a prevailing party, have been preferred to others of superior qualifications, and good appointments have frequently been carried by narrow majorities. By the junction of two parties supporting inferior candidates, the best-qualified person has been rejected. But the greatest evil of the system is the necessity to which candidates are subjected of trying to procure votes by personal canvass. Nor are the electors assailed only by the solicitation of the immediate competitors for the vacant office and their friends. When the election of a particular candidate for the existing vacancy would throw open a desirable office previously held by him, (as frequently happens in vacancies of medical professorships,) the influence of all the friends of the expectants, in the remotest degree, is brought to bear in their favour. The electors are courted as if they were gratuitously conferring a favour, not exercising a trust. It is usually found expedient to procure the interference of those to whom they are under obligations; and it is impossible to disguise that other considerations are put forward than the merits of the competitors. In the words of a learned professor, whose declaration was taken,* "the candidates were compelled to stoop to the level of their electors, and there has not been a single instance in which, where a corrupt influence has been adequately exerted, the most superlative merit, if otherwise unaided, has had any chance, while it has often happened that, where merit did actually succeed, success was obtained by the very narrowest majorities, and only obtained at all by employing the same sinister means which would otherwise have been triumphant against it." And another professor† has observed, "that the practices resorted to, on some occasions, to influence the members of council, are such as must offend every man of feeling and principle." Patronage.

A few of the gentlemen ‡ examined were of opinion that the recent change in the constitution of the town council would render that body more fit to discharge its duty as patrons of the university, by making it more amenable to public opinion, while others § were of an opposite opinion. Without relying much on such anticipations, we are convinced that the town councils of Edinburgh will not again be rendered subservient to the will of a small political party; at the same time we apprehend that the influence of political feeling, though changed, is by no means entirely destroyed; and as councillors will be frequently recommended to the choice of their constituents by political and local circumstances, it is highly unlikely that in the exercise of their patronage they should be free from a corresponding bias.

Another ground of apprehension, arising out of the present constitution of town councils, has already been felt; but, in consequence of the public notice, it has attracted, we trust that its operation will be effectually checked. We allude to the recent introduction into the council of a number of professional gentlemen, members of the College of Surgeons, or private teachers of some of the branches of medical science, whose influence in that body was regarded with alarm, as calculated to place the patronage and administration of a great medical school in the hands of men having rival interests or peculiar objects of their own. These apprehensions, however, have, in the mean time, been alleviated by a resolution of the present council, that no member of its own body shall be eligible to any office in its gift during the period for which he shall have been elected. Whether such a resolution be sufficient to protect the university from all sinister influence may be questioned; but experience is yet wanting to warrant a confident conclusion.

The town council of Edinburgh, as patrons of the university, has been found to have the right of regulating the rate of fees,—of prescribing the course of study required of candidates for degrees,—of creating, subdividing, and suppressing professorships,—and, generally, of directing the internal economy of the college. Its interference in these matters is complained of by the professors as injudicious and vexatious. We think there can be little difference of opinion as to the injurious effects of the internal control thus exercised by the town council; and, therefore, whether we be justified or not in concluding that the higher branch of patronage, which consists in supplying vacant professorships, ought no longer to be intrusted to the town council of Edinburgh, we are clearly of opinion that there is no reason why they should continue to administer this part of the duty of patrons, which requires an intimate knowledge of the objects and necessities of the college, and of the progress and comparative advancement of science and lite- Internal Regulation.

* Evidence of Sir William Hamilton.

† Evidence of Dr. Christison. ‡ Mr. Turner, Dr. Thomson, Dr. Gairdner.

§ Dr. Campbell, Dr. Macwhirter, Sir G. Ballingall, Sir W. Hamilton, Mr. Cockburn, Professors Pillans, Napier, Christison, Graham, Syme, Hope, Cheape.

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rature in it and other academical institutions, and which is more liable than even the higher department to gross and frequent abuses.

The limits of our Commission have precluded us from making any inquiry or suggestion regarding that part of the patronage of the universities of Scotland which is vested in the Crown, or exercised by the professors of each college; and we are fully aware of the imperfection of any measure which would affect only a portion of the university patronage of Edinburgh, and should consider any scheme for the reformation of Scotch universities unsatisfactory that did not extend to them all.

Our inquiries have, however, impressed upon us the urgent necessity of a change of system in the management of the university of Edinburgh; and as the delay attendant on a more extended reformation renders expedient the adoption of a partial measure which may not be inconsistent with a general system, if any such should be hereafter adopted for regulating the patronage and management of all the universities of Scotland, we beg leave to recommend—

1. That a body of five curators shall be constituted, in whom shall be vested the whole patronage and management of the university of Edinburgh, with all the powers at present exercised by the town council in that matter.

2. That each curator shall hold his office for ten years from the date of his appointment, and shall then be re-eligible.

3. That of these curators two shall be named by the Crown, two by the town council of Edinburgh, and one by the *Senatus Academicus*.

4. That the curators shall not be members either of the Senatus Academicus or town council, and that they shall receive no salary or emolument whatever.

In proposing these outlines of a plan for vesting the patronage and government of the university of Edinburgh in a board of curators, we are aware of the objections which may be urged against it. Probably no untried measure could be proposed, to which some objections would not be urged. We have had in view the system which has been found advantageous in the most distinguished foreign universities, and we have endeavoured to adopt so much of it as seems to suit the institutions and peculiar views of this country. We have the less scruple in proposing so entire a change, that we do not think the present system of patronage susceptible of any effectual reformation; and we conceive that almost any change, which should place it in the hands of a small and responsible body, would be of advantage to the university.

It may be worthy of consideration whether, on the supplying of each vacancy in the university, the curators should not be bound to lay before your Majesty's Government the reasons which have induced them to prefer the person appointed to the office. This has been suggested to us as a useful check on the exercise of their powers: and we are aware that, in the most successful foreign universities, the recommendation of the curators, supported by a statement of such reasons, is the foundation of the appointment, which flows directly from the Crown. We consider it doubtful, however, whether such a precaution is necessary or expedient, where the actual and responsible exercise of the duty of patrons is to remain with the curators.

If Patronage to remain with Town Councils, proposed Regulations as to the exercise of it.

In case our views, as to a change in the University Patronage, should not be adopted, and that the election of professors should remain with the Town Council, we are of opinion that Regulations to the following effect should be made for its exercise:

1. No appointment of a professor shall be made till at least three months after a vacancy, the council being at liberty to appoint a temporary teacher for carrying on the instruction of the students during the vacancy.

2. The council, on the death, resignation, or removal of a professor, shall forthwith give public notice in the newspapers of the vacancy, and of the day on which the election of a new professor is to take place.

3. No member of the town council, or who has been in the council within one year prior to a vacancy, shall be capable of being elected as a professor.

The only other town council, which has any university patronage, is that of Aberdeen, where they have the appointment of two professors in Marischall College. The same observations that have been made with regard to Edinburgh apply to the university patronage of Aberdeen.

No Change relative to Bursaries.

With regard to Bursaries or scholarships in the gift of magistrates and councils there is little difficulty. There is no reason for depriving them of this branch of patronage; and all that seems necessary is to provide that public notice of vacancies shall be given a reasonable time before the day of election; and that competitors shall be chosen, after public trial of their acquirements, according to their merits.

V.

EXCLUSIVE PRIVILEGES.

History.

We have already stated, that among the earliest boons conferred on the inhabitants of burghs royal was the possession of a monopoly, both of commerce and of manufacture, within their respective bounds or liberties. In the more ancient charters from the Crown, the distinction between commerce or traffic, whether foreign or domestic, and manufacture or handicraft, is not very strongly marked; nor are there any corresponding and well-defined distinctions between the classes of individuals entitled to those privileges. In this respect, the only very palpable criteria are *freedom* and *residence;* and down to the latest periods these two qualifications have continued to be indispensable. As to the second of these, barring a slight degree of latitude in the construction of the term *residence*, there never could have existed any room for uncertainty in its application. With the other the case is somewhat different. We have ventured to state, as an opinion derived from a consideration of their oldest charters, as well as from some of the most authentic remnants of burgal legislation, that the possession of a certain extent of real property within the limits of the burgh constituted the basis of free burgess-ship, and, when combined with the other essential quality of personal residence, gave the only right to the enjoyment of burgal privileges and immunities. Exceptions in favour of the sons of burgesses not yet foris-familiated appear to have been of very early date; and these have been gradually extended in various directions, till at last the possession of real property has not merely ceased to be a necessary qualification, but has even ceased to entitle its owner to the character or privileges of a burgess. In this respect the practice of the different burghs of Scotland has been various; but in all, whether the claim to freedom be founded on birth, on domestic relationship, on personal service, or apprenticeship, or solely on purchase, an entry into the community has been made a source of emolument to the Corporation,—in some cases, perhaps, an engine of extortion.

In all the burghs of Scotland, without exception, the entry of an individual as a burgess, and his consequent submission to the duties and obligations of burgess-ship, is absolutely indispensable to his enjoyment of any of its privileges. In a few burghs nothing more than this is required to entitle an entered burgess to the full exercise and enjoyment of all burgal rights and immunities; but in the far greater number of burghs this has long ceased to be the case, and certain additional qualifications have become equally indispensable. Without resuming the details already given as to the gradual formation of subordinate confraternities among the freemen of burghs royal, it may be enough here to state, that of these the *Gilda Mercatoria*, or society of merchants, properly so called, was certainly the most ancient; and although it may be doubtful what peculiar circumstances entitled a burgess to claim an entry into the guild, it seems quite certain that it never was open to all, and that it was entirely exclusive of certain classes. In the remaining fragments of early burgal law there is an evident want of precision in this respect; but that want was at length completely removed by the practice which ultimately prevailed, of forming different classes of those employed in manufacture and handicraft into similar confraternities or corporations. From that period the distinctive characters and rights of burgesses, in reference to the two great branches of burgal monopoly, became clear and well defined; and, under various denominations of burgesses and guild brethren, or burgesses of guild, or merchant burgesses, on the one hand, and of burgesses of crafts, or trade burgesses, or craftsmen, on the other, these two classes have ever since continued to maintain their respective privileges, not only against unfreemen of the burgh, but against one another.

I.—*Exclusive Privileges of Merchant Freemen or Guild Brethren.*

View of Parliamentary Provisions.

Passing by, in this place, the more ancient declarations of commercial monopoly to be found in the royal charters of burghs, or in the earlier fragments of burgal law, and the general denunciation of punishment against transgressors contained and often repeated in these as well as in more recent legislative acts—it may be proper here to take a cursory View of those Parliamentary Provisions which were intended either to modify this exclusive right, or to alleviate its injurious pressure

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on the other classes of the community. Although such be the general tendency of the statutes, yet in some, under the usual pretext of public expediency, the object appears to have been rather to increase than alleviate the severity of the exclusive system. Thus, in a statute of James II.,* besides a general re-enactment, that "saylars in merchandice be fremen of burowis and indwellaris within the burgh," it was "sene spedeful," for "restrictione of the multitude of sailars," "that thar saill na personis bot hable and of gud fame, and that he haif at the lest thre serplaris of his awne gudis, or ellis committyt till him, or the availl tharoff." In several subsequent statutes, similar and still higher rates in the amount of property are required of dealers in foreign trade, in the view of disabling needy and desperate adventurers from disturbing the regular course of the more opulent class of merchants.

In the reign of James III. certain regulations were propounded by the royal burghs, in their session or convention, "for the gude of merchandise and profit of the realme," which were adopted and ratified by the three estates in the Parliament of 1466. Among these there is an anxious reassertion of the law, "that nane of our soverane lordis liegis sale nor pas in merchandise out of oure realme, bot fremen burges dwelland within burgh, or thar familiaris, factouris, or servandis, being with tham of houshald at mete and drinke;" but to this sweeping ordinance there is annexed a saving clause, which seems to indicate the previous existence of a partial relaxation in favour of the higher classes of society; "Saufand that it sal be leful to prelatis, lordis, barounis, clerkis, to send thar proper gudis with thar servandis, and to by agane thingis nedeful to thar proper use." In subsequent statutes the same reservation is frequently repeated.†

At the date of these regulations the distinction between the two classes of burgal monopolists had been fully established; and although evasions appear to have been occasionally practised, the distinct rights and privileges of each class were completely protected. Accordingly, in the same Parliament, it was "statute and ordanit, that na man of craft use merchandise be himself, his factoures, or servandis, bot gif he lefe and renunce his craft, but colour or dissimulation."

Towards the close of the same reign another set of statutes was proposed by the commissioners for the burghs, and ratified in Parliament,‡ all in the same spirit, and denouncing still more severe penalties against transgressors: and, in particular, it was ordained, "that the Act of Parliament tuiching the craftismen usand and deland with merchandise might be put to execucioun, sa that he that is a craftisman outher forbere his merchandise, or ellis renunce his craft, but ony dissimulacion or colour, under the pain of eschete of the merchandise that he usis occupyand his craft."

In the first Parliament of the following reign§ an Act was passed, ordaining, "That in all tym to cum, all manner of schippis, strangearis, and utheris, cum to his (the King's) fre burrowis, and thar mak thar merchandise;"—and "that na strangear do in the contrare, under the pain of tynsale and confiscacioun of thar schip and gudis to our soverane lordis use." In this, as in various other Acts relative to foreign trade, one of the objects certainly was to prevent evasion of the duties payable to the Crown; but from the persevering activity on the part of the burghs in obtaining such frequent re-enactments of these and other prohibitory ordinances against unfree traders, it may be inferred that the interests of the Crown were a secondary object only, and that it required the utmost efforts of the legislature to maintain this monopoly against the general interests and feelings of the community. Without any further enumeration of the many successive Acts of a similar tenor, it may here suffice to quote the last of the series, which was passed in the first Parliament of Charles I.,‖ and which contains a summary of the most remarkable of the previous statutes. After a general ratification of all Acts and constitutions in favour of the free burghs of the realm, made in any time by-past, it "specially ratifies the Act of Parliament made by his Highness's grandfather, umwhile King James the Third, 1466, his second Parliament, c. 11, ordaining that none saile nor passe in merchandise out of the realme but freemen, burgesses dwelling within burgh, or their familiar factors, servants, being with them in household at meat and drink (excepting and reserving to the prelates, lords, barons, and clerks, as in the said Act is contained, and all other exceptions con-

* Act. Parl. Scot., 1457, c. 10,—vol. ii. p. 49.
† Ibid. 1466, c. 1, &c.,—vol. ii. p. 86.
‡ Ibid. 1487, c. 13,—vol. ii. p. 178.
§ Ibid. 1488, c. 12,—vol. ii. p. 209.
‖ Ibid. 1633, c. 24,—vol. v. p. 42.

tained in any Act of Parliament in force preceding the day and date hereof). And sicklike the Act of Parliament made by King James the Fourth, of worthy memorie, in the Parliament holden at Edinburgh the elleventh day of March 1503 years, cap. 84, ordaining that no person dwelling out of burrowes use any merchandize, nor yet tap nor sell wine, wax, silkes, spicerie, wad, nor sicklike stuffe, nor yet staple goods: And that none pack nor peill in Leith, nor other places without the King's burrowes, under the pain of escheat of the goods that be tapped, sold, packed, or peiled, contrary to that statute: And sicklike the 152d Act of umwhile King James the Sixth, his twelfth Parliament, ordaining that no person exercise the traffique of merchandise but burgesses of free burrows, under paine of escheat of their whole goods and geare, the one-halfe to his Majestie, and the other halfe to the burgh apprehender: And giving power to every burgh by themselves, or a collector or commissioner depute by them, to search the saids unfreemen's goods, intromet therewith as escheat, either within the countrey, or any other part, to arreast, call, follow, and pursue before unsuspect bailies to be creat by them. And also, the sixth Act of King James the Sixth, his nynt Parliament, ordaining letters of horning to be direct against unfreemen not being burgesses of the free royal burrowes, to find caution for desisting from usurping of their liberties, in all the heads, clauses, articles, and circumstances thereof: Like-as his Majestie and estates declare, that the saids liberties and priviledges, mentioned in the saids Acts, are only proper and competent to the free burrowes royal that have vote in Parliament, and beare burden with the rest of the burrowes, and to no others. Prohibiting and discharging all persons who are not burgesses of the saids free-royal burrowes, and beare not burden with the rest, of all using and exercising of the liberties and privileges foresaids, in all time comming. And ordaine, that letters of horning may be direct by the lords of council at the instance of all burrowes upon the foresaids priviledges and former Acts of Parliament made thereupon, and this present Act, in all times to come, for putting of the same to due execution with all rigour against them that do; or come in the contrary of the acts and priviledges foresaids, without calling of any partie."

Exclusive Privileges.

After an interval of forty years, the next Act "concerning the Privileges of Burghs Royal,"* which appears on the statute book, is of a tenor which clearly indicates the rapid growth of more just and liberal opinions. It proceeds on the following recital:—"Our Soveraign Lord, taking into his serious consideration how necessar it is, for the wealth and welfare of this his ancient kingdom, that trade and commerce be encouraged, both for the export of the growth and manufacturie of the kingdom, and for import of forraign commodities, requisite for the use and satisfaction of his people: and for that effect, that the priviledges of the royal burrows granted by his Majesty and his royal predecessors, may be established, and cleared from the many controversies and debates that have been thereanent, to the great disquiet and expences, both of the royal burrows themselves, and other incorporations and people of the kingdom; which controversies have arisen concerning the extent of the priviledges of the royal burrows; and how far the ratifications thereof, granted by his Majesty and his royal predecessors, and the estates of Parliament, have been derogat and abrogat by contrare custom, or by infeftments and priviledges granted by his Majesty and his royal progenitors; and specially by the 24th Act of the Parliament holden by his Majestie's royal father, of happy memory, in the year of God 1633, entituled, *Ratification of the Priviledges of the Royal Burrows*, whereby all exportation of any merchandice is prohibited to any persons but the burgesses of royal burrows, their factors or servants; and all persons dwelling out of burrows are prohibited to use any merchandice, or to buy wine, wax, silks, spicery, wald, or sicklike stuffs; nor that none pack nor peil without the King's burrows, under pain of escheat of the goods that should be topped, sold, packed, or peiled, contrare to that statute: and giving power to the saids royal burrows, or their commissioners, to search unfreemen's goods, intromet therewith as escheat; either within the countrey or any other part. Which priviledges so extended were never in use, and are highly prejudicial to the common interest and good of the kingdom, and are by the said statute extended far beyond the ancient priviledges of burrows, repeated and confirmed therein; applying the priviledges granted to burrows generally to royal burghs only, to the prejudice of the burghs of regalities and barrony, and extending of the sale of imported commodities, which could only be understood of wholesale,

* Act. Parl. Scot., 1672, c. 5,—vol. viii. p. 63.

Exclusive Privileges.

to the topping and retailing of the saids commodities. And, on the other part, the just priviledges of the royal burrows have been encroached upon by others, not only by exporting, but by importing of staple commodities, without bearing burden with the saids royal burrows in the publick taxations and aids granted to his Majesty."

The remedial provisions of the Act are, that the royal burghs shall retain the exclusive trade in wholesale of wine, wax, silks, spiceries, wald, and other materials for dyeing; that the export trade of all native commodities of the kingdom shall be completely free, and in return certain enumerated articles may be freely imported; that a similar liberty should be allowed to burghs of regality and barony in dealing with articles of their own manufacture; and that the retail trade in all commodities whatsoever shall be completely free.

The history of the Act is thus given by Sir George Mackenzie: "The burgh of Stirling had charged the unfreemen of Falkirk to desist from trading, they being but a burgh of regality, belonging to the Earl of Callender; which charge they suspended; and the suspension having been debated before the session, the commissioner (the Duke of Lauderdale) was, because of his interest in Musselburgh, which is a burgh of regality belonging to him, persuaded to come up to the session; and the interest of the lords of regality having been debated by Sir Robert Sinclair and Sir George Mackenzie, and that of the burghs by Sir George Lockhart and Sir John Cunningham; it was desired by Sir George Mackenzie that, since this debate related to the policy of the kingdom, it was more proper to be considered by the Parliament than by the session; the Parliament being the proper judges of trade, and conveniences arising to it. And so, this being brought in to the articles, they drew an Act, allowing burghs of regality and barony to export corns, and the manufactures of the kingdoms, and to import iron, timber, and such like commodities as were necessary for labouring of the ground; which act was accordingly passed in Parliament; but because the reasons *pro* and *con* are fully represented in Sir George Mackenzie's Pleadings, therefore they are here omitted. By this (and another) Act Lauderdale lost the affection of the burghs royal, who did formerly depend entirely upon him as their agent at Court; which employment he wisely desired, at his Majesty's Restoration, knowing it would secure him that third estate of Parliament."*

This Act had not the expected effect of adjusting the rival interests of the different classes of burghs; and farther and more precise regulations were found to be necessary to guard the remaining privileges of burghs royal against encroachment. In 1690 an Act was passed reciting "that the trade allowed to burghs of baronies and regalities hath not been yet so cleared, but that many controversies do daily arise thereupon, to the great prejudice of the trade of this kingdom;"—"that the royal burghs being one of the estates of this kingdom, bearing a sixth part of all publick impositions, being obliged to watch, ward, build, and maintain prison houses, with several other obligations, in support of their Majesties' Government;" in consideration whereof, by many repeated laws, the power of trade within and without the kingdom had been granted to them; "and, it being most fit that now, after full tryal of all former expedients, all controversies about trade should be clearly determined," an attempt is made in this Act to give greater precision to the former statutes, into the details of which it is unnecessary here to enter.† Even this, however, did not supersede the necessity of another Act of Parliament in 1698, "for farder clearing of the trade allowed to burghs of barronie and regalitie, or others who are not freemen of burghs royal;" but with this at length terminated the legislative measures for protecting their commercial rights.‡

In the mean time a scheme in the nature of an equitable adjustment between the royal burghs and those of regality and barony had been devised, for the purpose of imparting to the latter the benefit of this exclusive privilege. It has been already mentioned, that even from an early period it was not unusual to grant to the superiors of regalities and baronies a right of trade in common with the burghs royal, under the condition of becoming liable to the burden of public taxations. This extension of the privilege could be granted only by the Crown; neither the individual burghs, nor their general convention, having any such power. Very soon, however, after the revolution of 1688, a relaxation of the rule in that respect was attempted, and a temporary arrangement was devised by the convention of

* History of Scotland, p. 226.

† Act. Parl. Scot., 1690, c. 15,—vol. ix. p. 152.

‡ Ibid. 1698, c. 38,—vol. x. p. 176.

Exclusive Privileges.

burghs for giving the benefit of trade to such burghs of regality or barony as should agree to undertake a certain share of the burden of taxation. In the Parliament of 1693 an Act was passed "for the Communication of Trade,"* by which these previous arrangements were sanctioned, and rendered perpetual, and a power given to the convention of burghs to regulate the *quota* or proportion of cess or land-tax to be exacted from those burghs which should take the benefit of it, subject, however, to the control of Parliament in determining the just amount of the *quota*. At the date of these arrangements it was expected that the relief thus to be obtained would amount to 10 per cent. of the whole tax. But this was soon found to be impracticable; and in 1698† another Act was passed "for terminating the differences that have lately arisen betwixt the burghs royal, and burghs of regality and barony," and others, on account of "the communication of trade, and especially about the subdivision of the ten pound of the hundred pounds of the taxt roll of the burghs royal." And for this purpose, and for making this communication more effectual, a commission was appointed, with full power to determine the questions in controversy, and to extend the benefit of the measure as far as might be deemed expedient. The proceedings of these commissioners are calculated to throw some curious lights on the state of Scotland at that period; but, in this place, it may be enough to add, that, under the general arrangements thus effected, the relief obtained by the royal burghs, in return for this participation in their privileges, proved comparatively small, and has been gradually diminishing; not much exceeding, at the present day, a fortieth part of the tax.

Actual State of those Privileges.

Since the union of the kingdoms, in 1707, there has been no direct attempt, by parliamentary authority, either to protect and enforce the exclusive privilege of trade, or to relax and alleviate the effects of its severity. The law, in so far as it rests upon statutes, continues the same at the present day, with only very trifling modifications; and courts of justice could not even now refuse giving effect to it. It is, however, very remarkable, that neither before nor since the Union has the number of litigated cases, arising on the statutes, been considerable; and, on the part of the larger and more prosperous towns, any proceedings of the kind may be said to have been almost unknown. The exceptions to the contrary, even among the smaller burghs, are not here deserving of any minute detail; turning generally either on the title of the prosecutors to maintain any action under the statutes, the particular mode of enforcing compliance with the injunctions of the statutes, or the precise limits to which the right of exclusion could be carried. In cases of the last of these classes, the general tendency of the decisions has been favourable to the extension of free trade. Thus, in the year 1757, it was determined that goods brought from London were not to be deemed foreign goods in the sense of the Acts 1672 and 1690. In favour of the members of the incorporated trades it was decided, in 1793, that they might import all the materials of their respective trades, and export the produce of their own manufacture; but, on the other hand, that they could not deal as merchants, in the native commodities of England, nor import manufactured goods. Even this restriction, however, has been done away by a later decision in 1823, finding that craftsmen might import and sell goods manufactured in England, provided they were of that description to which their own exclusive privilege of manufacture extended.

Looking, therefore, to the present state of the law of Scotland in this department, it cannot be said that it has recently undergone any substantial alteration; yet most certain it is that it has been gradually subsiding into desuetude, in consequence of the generally prevailing opinion of its public impolicy, and a conviction, on the part of the privileged classes, of its real inutility for the well-being either of individuals, or of the communities to which they belong. Even if abandoned merely to the operation of time, its legal existence could not be much prolonged; and the commerce of the country would become nearly as free in theory as it has already become in ordinary practice. Still, however, the system, although usually dormant, still survives, and may still be employed by individuals as an instrument of vexation, or as the means of extorting advantageous compromises from unfree traders. In some burghs of the smaller class, entries as burgesses and guild brethren are successfully enforced merely by threats of prosecution. In others, temporary licences are sold to individuals, certainly on not very extravagant terms, yet in a way to repress adventure, or to expel the adventurer beyond the privileged boundaries.

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* Act. Parl. Scot., 1693, c. 51,—vol. ix. p. 315. † Ibid. 1698, c. 39,—vol. x. p. 176.

EXCLUSIVE PRIVILEGES. They ought to be abolished.

On the whole, therefore, and in concurrence with the opinion of the best-informed classes of mercantile men, we cannot hesitate in recommending the entire Abolition of this class of exclusive privileges. In favour of their continuance nothing better can be said than that they are now very nearly innocuous; but even the possibility of a partial or trivial evil, to which they may give occasion, does not now admit of serious apology.

With respect to the class of burgesses on whom these privileges were conferred, whether now existing under the denomination of guild brethren or of merchants, and whether separately incorporated or constituting a portion of the general corporation of their respective burghs, we are not prepared to suggest any farther change. Even when stripped of their privileges as merchants, their condition will not be very materially altered. In many cases they will remain in possession of considerable funds devoted to charitable uses; and in many others, certain shares of patronage, or of the right of admissibility to the benefit of public charities, would remain to them. On one point only does any new or additional control seem to be rendered necessary, namely, as to the terms and conditions of future admission into the body; and regarding the great diversity of their constitutions and circumstances, as detailed in the local Reports, we cannot venture to propose any one general plan as applicable to the whole, and would greatly prefer an entire abstinence from any farther or more minute regulation.

2. *Exclusive Privileges of Craftsmen or Incorporated Trades.*

Origin of Privileges of Craftsmen.

We have already stated, that the distinction between merchants and artisans, so strongly marked in later times, does not appear to have been coeval with the first erection of burghs royal. The prior existence of the merchant guild is clearly ascertained; and although it may be doubted whether its constitution and rules did originally exclude all individuals falling within the description of artisans, it is evident that their inferior rank and influence in the general body of burgesses, as well as a regard to their own peculiar interests, must have had the effect of gradually drawing them together into separate associations or confraternities, and of thus rendering the distinction between craftsmen and merchants more palpable and complete. The jealousy on the part of the Government, as well as among their fellow-citizens, with which these combinations were regarded, has been already alluded to; and the course of legislative regulation referable to craftsmen affords a curious contrast to that which we have just been reviewing on the subject of commercial privileges. In the one case there appears a strenuous endeavour to protect the trade of merchants against those infringements to which, from its nature, it was so much exposed, either by the furtive evasions of their brother burgesses of the crafts, or by the more daring inroads of mere strangers; while, on the other, the vigilance of the Legislature has been mainly directed to guard the public against the impositions of craftsmen, either by the manufacture and sale of insufficient workmanship, or the exaction of unwarrantable prices.

With respect to the former of these species of fraud, we have already referred incidentally to some of the earlier ordinances for appointing deacons or assay-masters; and, although the system was at first suspected of leading to consequences dangerous to the public peace, yet, as this class of burgesses gradually grew up into wealth, respectability, and political importance, the alarms of the Government and of their fellow-citizens appear to have subsided, and to have ended in their unreserved recognition as distinct, but subordinate corporations, entitled to regulate their own affairs, and to enforce their own peculiar rights and privileges. In this respect, however, their advancement to independence was by no means rapid; nor was the formation of the different classes of artisans into regular corporations simultaneous even within the same burgh; and, as to the same classes in different burghs, there was a similar diversity.

In the course of this progress the craftsmen had not derived much countenance or support either from the Crown or the Legislature. In the earliest charters to burghs royal, there is usually an express recognition of the merchant guild; and for the protection of their privileges the interpositions of Parliament were frequent; but in no one instance of early date can the original incorporation of craftsmen be traced directly either to the royal prerogative or to the authority of Parliament. In a few charters of later date may be found a grant to the superior, or to the magistracy of the burgh, empowering them to erect subordinate corporations; but in general the power would appear to have been assumed, in the first instance, as falling within the ordinary functions of burgal government, and not implying any

thing really beyond the range of internal regulation. Within the limits and liberties of the particular burgh, and in questions with other burgesses, there was thus, perhaps, no very great or improper stretch; but beyond those limits, or within other jurisdictions, a class of persons so connected could not have been entitled to claim the character of an incorporated body. For this reason it must have been that the craftsmen in the larger towns, and indeed in many others, have at different periods been anxious to obtain charters from the Crown, or Acts of Parliament, recognising and ratifying their rights as legal corporations; and in those cases where no such grants or ratifications are known to exist, it is by the usual force of prescription that their corporate character may be maintained.

Exclusive Privileges.

The royal and parliamentary grants now referred to are of course not of an early date in the history of burghs. During the 15th century the craftsmen were evidently not objects of particular favour either with the Crown or the other estates of the realm; and after the statutes in the reign of James I., permitting and then prohibiting their assemblage for the election of officers, very little respecting them appears in the statute-book till near the close of that century. In two different statutes, indeed, (1457, c. 68, and 1485, c. 15,) and particularly in the last, the goldsmiths are treated as an existing corporation, having a deacon and other officers, who acted, in the admission of members, with the "hale body of the craft;" and as, in the town of Edinburgh, the hammermen, including the goldsmiths, had been incorporated by the magistrates in 1483, the statute now referred to may be regarded as equivalent to a direct recognition of their corporate existence. The wrights, masons, and weavers of Edinburgh, had been previously incorporated in 1475, and the cordiners in 1479; and nearly about the same time similar corporations had been established in other towns by burgal authority. Still, however, their hold upon the public support was not very secure. They evidently continued to be regarded with suspicion and jealousy, and their associations were deemed of dangerous consequence to the interests of individuals as well as to the public peace. The prevailing opinions on this subject cannot be better illustrated than by quoting a statute passed in one of the earlier Parliaments of James IV.* "Becaus it is cleirly understandin to the Kingis Hienes and his Thre Estates, that the using of dekynnis of men of craft in burrowis is rycht dangerous, and, as thay use the samin, may be the caus of greit troubill in burrowis, and convocatioun and rysing of the Kingis liegis, be statutes making contrair the commoun proffet, and for their singular proffet and avale, quhilk [de] servis greit punytioun; And als belangand masonis and uther men of craft, that convenis togidder and makis reule of thair craft, sic as masonis, and wrichtis, and utheris, that thay sall have thair feis als weill on the haly dais as for wark dais, or els they sall nocht laubour nor wirk; And als, quhat personis of thame that wald begin ane uther mannis werk, and he at his plesour will leif the said werk, and than nan of the said craft dar nocht compleit nor fulfill the samin wark: It is heirfoir avisit, statute and ordanit, that all sic dekynnis sall ceiss for ane yeir, and have na uther power, bot allanerly to examyne the fynace of the stuffe and werk that beis wrocht with the remanent of his craft: And als belangand masonis, wrichtis, and uther men of craft, that statutis that they sall have fee alswele for the haly day as for the werk day, that all the makaris and usaris of the said statutes sall be indictit as commoun oppressouris of the Kingis liegis be thir statutis, and that the clerk of the Justiciary sall tak dittay thairupoun, and thai to be punist as oppressouris; and in likewise of the makaris of the statutis, that quhair ony begynnis ane mannis werk, ane uther sall nocht end it, that all the makaris and usaris thairof sal be punyst as oppressouris of the Kingis liegis, and dittay to be taken thairupoun as is abone writtin."

Modes by which conferred.

In spite of these and other attempts to repress the combinations of craftsmen, the system of incorporating them in certain classes came gradually to be followed in almost every royal burgh in Scotland. In this respect the mode of proceeding has been nearly uniform in all burghs, and consists in granting letters under the seal of the burgh court, or "*sigillum ad causas*," sometimes reciting a previous act of the council, but in all declaring the peculiar rights and privileges which the members of the body were to enjoy. The tenor of these writings is not in all cases the same; for in some there is an express prohibition of all persons from working who are not freemen of the craft; and in others the right consists in a delegation to the craft of the privilege of admitting new members, inspecting commodities, making bye-laws, electing office-bearers, and having a box

* Act. Parl. Scot., 1493, c. 14,—vol. ii. p. 234.

EXCLUSIVE PRIVILEGES.

or common good. In all of them there was, of course, implied a strict monopoly within the limits or freedom of the burgh as existing at the date of the grant, but not further, even where the limits of the royalty have been subsequently enlarged. From the mode in which they were usually authenticated, writs of this kind have obtained the name of Seals of Cause.

1. *Statutory Provisions.*

The erection of the crafts into separate corporations was not held as depriving the magistrates of burghs of their right of control over the members in the exercise of their exclusive privileges; and in various statutes that right was recognized and enforced. By an Act of James V.,* setting forth "the gret oppression dailie done upoun Our Soverane Lordis liegis be cordonaris, smythis, baxtaris browstaris, and all uther craftsmen, sellaris of vittale and salt, compelland thaim to pay for thair stuff and warkmanship exorbitant prices, to the gret scaith of all Our Soverane Lordis liegis, bringand sik derthe in the countre, that the samyn may nocht be sustenit; for remeid" whereof certain Commissioners, including the provost of Edinburgh, were authorized "to mak sik statutis and ordinancis as thai sall think maist expedient, for the commoune wele; to cause all craftsmen within the toune of Edinburgh, and utheris of the realme, to mak gude and sufficient stuff, and sell the samin of ane competent price." "And the saidis Commissaris to do justice upoun the brekaris of thir ordinancis als oft as thai here murmur or complant thairof."

By another Act of James V.† "anentis the conductioun of craftismen," proceeding on a similar narrative of its being "hevily murmuret that all craftesmen of this realme, and specialy within burrowis, usis sic extortiounis upoun utheris Oure Soverane Lordis liegis, be resoun of thare craftis, and of private actis and constitutionis maid amangis thaimselfis, contrare the commounweill, and in grett hurt, prejudice, dampnage, and scaith to all the liegis of this realme;" certain enactments are made against combinations, particularly among artificers employed by those "that hes ony biggingis or reparationis to be maid for making of policy in this realme;" of which the most remarkable is, that they may choose "gude craftismen, freemen, or utheris," as they may think most expedient for "ordouring, bigging, and ending of all sic warkis." This introduction of craftsmen within the liberties of a burgh to which they do not belong is secured against any impediment by others of the craft, by a declaration that, besides other penalties, it shall infer a forfeiture of their freedom; and "the provost and bailies of all burrowis" are required to "tak inquisitioun hereupoun, and putt this act to executioun in all punctis." In the Parliament of 1607,‡ this Act was ratified and ordained to be put to execution, "notwithstanding whatsumever Act or statute made in the contrare;" and in a case decided in 1675 it appears to have received a more than liberal construction from the town council of Edinburgh, by finding "that, where a freeman either deserted or delayed, the owner of the work might employ any, even unfreemen; though it was alleged it was not just to punish all the freemen for the fault of one; nor was it convenient for the commonwealth that unfreemen should be admitted, for whose work none can be answerable."§

In the Acts of the Parliament of 1551‖ there occurs another vehement denunciation of the extortions of craftsmen, the inefficiency of the deacons, and the gross negligence of provosts and bailies; and an injunction is given to take immediate steps for fixing the reasonable prices of all articles, to be reported to the next Parliament. That this injunction was obeyed does not appear; but in 1555 ¶ an Act was passed, from which it may be inferred that this class of citizens had in some way rendered themselves extremely obnoxious to the Government of that day, apparently by combinations among the craftsmen of different burghs, for resisting all attempts to control their alleged extortions. In the words of the Act it is stated, as "cleirly understand, that the chesing of dekinnis and men of craft within burgh hes bene rycht dangerous, and, as thay have usit thame selfis in tymes bygone, hes causit greit troubill in burrowis, commotioun, and rysing of the Quenis liegis in diverss partis; and be making of leggis and bandis amangis thame selfis, and betwix burgh and burgh, quhilk deservis greit punischment." It is therefore

* Act. Parl. Scot., 1535, c. 43,—vol. ii. p. 351.
† Ibid. 1540, c. 30,—vol. ii. p. 376.
‡ Ibid. 1607, c. 8,—vol. iv. p. 374.
§ Sir George Mackenzie's Observ., p. 146
‖ Act. Parl. Scot., 1551, c. 18,—vol. ii. p. 487.
¶ Ibid. 1555, c. 26,—vol. ii. p. 497.

ordained that no deacons be chosen, "bot the provost, baillies, and counsall of the burgh, to cheis the maist honest man of craft of gude conscience, ane of everie craft, to visie thair craft, that thay labour sufficientlie, and that the samin be sufficient stuffe and wark; and thir personnis to be callit visitouris of thair craft:"—but "without any power to mak gaddering or assembling of thame to ony private convention, or making of ony actis or statutis, bot all craftismen in tyme cumming to be under the provost, baillies, and counsall." This attempt to establish a more effectual system of control appears to have been rendered abortive in a way not very usual or regular; but it is certain that within a year, and on the strange pretext of its non-observance, a royal proclamation was issued, expressly abrogating the statute, and restoring the election of deacons as previously possessed by the craftsmen. Exclusive Privileges.

This singular assumption of a dispensing power appears to have been fully more effectual in settling the burgal constitution of the incorporated trades than any previous enactments of the legislature; and from this period they may be held as having assumed that form in which they have ever since remained. As regards the operation and extent of their exclusive privileges, however, various statutory modifications have taken place. In 1692,* an important advantage, in opposition to the previous law, was conceded to them by an Act "aganis sic as exercises craftes in suburbis adjacent to burrowis;" which proceeds on the narrative that "the exerceise of craftismen in the suburbis of the frie burrowis is not onlie hurtfull to all our soverane lordis liegis, for the insufficiencie of the wark, bot als ministrattes greit occasioun to prenteissis and servandis in frie burrowis undewtifullie to leive thair maisteris, and to remane and abyd in the said suburbis, thairby substracting thame selffis fra the jurisdiction of the provost and baillies of the saidis burrowis, and als the frie craftismen resident within the saidis burrowis ar gritlie damnifiet, seing thay beir ane greit pairt of the chargis of the burgh, and the advantage of the wark that suld relief thame is drawen away to the saidis suburbis:" It is therefore ordained, "that in all tyme cuming thair sal be na exerceis of craftis in the suburbis adjacent to the saidis burrowis;" and magistrates are authorized to seize "the warkis that sal be fund wrocht or in working," and to confiscate them for the common use of the burgh next adjacent.

2. *Modifications of Privileges of Craftsmen.*

Ancient Opinion relative to the Policy of such Privileges.

It is not a little remarkable that this narrow system of Policy should have so long obtained the countenance of the legislature, and that a more effectual remedy for the evils so much complained of, whether real or imaginary, should not have been sooner sought for in a system of greater freedom, of which, in this particular department, England had already exhibited a successful experiment. On this subject there is a very remarkable observation by King James, in the ΒΑΣΙΛΙΚΟΝ ΔΩΡΟΝ, or, Instructions to his son Prince Henry, which however may have been partly dictated by his abhorrence of the tumultuary conduct, on various occasions, of the lower orders in his ancient metropolis. "The craftes-men thinke we should be content with their worke, how bad and dear soever it be, and if they in any thing be controlled, up goeth the blew blanket. But for their part take example of England, how it hath flourished both in wealth and policie since the strangers craftesmen came in among them. Therefore not only permit, but allure strangers to come here also; taking as straite order for repressing the mutining of ours at them, as was done in England at their first in-bringing there."†

Although opinions of this kind appear to have been gradually gaining ground, they certainly had no very immediate effect on the proceedings of the legislature. The influence of the burghs royal in Parliament was undoubtedly very weighty, and a system of timid modification was the utmost that could be successfully aimed at. In the first Parliament after the Restoration of Charles II. several Acts were passed relative to trade and manufactures, in which, with a large infusion of the exclusive and illiberal spirit still prevalent, there are distinct indications of an approach to a more natural and rational system. Among these is an Act, in 1661, "establishing companies and societies for making linen cloth, stuffs," &c., which, besides other encouragements to undertakings of this kind, contains the following provisions:—"And that manufacturies may be promoved, and for the encouraging of skilful artisans to come from abroad, for training up the persons foresaid, and working for the use of the said companies, it is hereby declared, that all such as

* Act. Parl. Scot., 1592, c. 76,—vol. iii. p. 579.

† King James's Works, p. 164.—The blue blanket is the ancient banner of the craftsmen of Edinburgh.

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shall be brought home and employed for the said companies, shall be free to set up and work in burghs and landwart where the companies shall think fit, without paying any thing whatsoever to any person or persons, under whatsoever colour or pretext, for their freedom, and shall be free of taxes, public burdens, or exactions, during their lifetime; notwithstanding of any law, statute, priviledge, or indulgence made or granted in the contrair, by his Majesty or any of his predecessors, in favors of any committee or incorporation whatsoever, which are all hereby cassed, rescinded, and declared void and null, in so far as they may be conceived to derogate from the priviledges and immunities granted by this present Act in favors of tradesmen, natives, or strangers, belonging to or brought home by the saids companies for working in the said manufacturies."*

As a counterpart to this, there is another Act of the same Parliament,† "inhibiting and discharging all tradesmen and mechanicks to import from foreign parts any made work belonging to that trade or calling whereof they are freemen, or to vend the same, or any such ware brought home by merchants, in their shops or otherwise, under the pain of confiscation."

On the progress of public opinion, relative to trade and manufacture, and on the sinistrous impediments opposed to its operation, there is a remarkable testimony in the historical work of Sir George Mackenzie, at that time an active opponent in Parliament to the government of the Duke of Lauderdale. "At this time (1669) it was designed that all tradesmen should be declared free in all the burghs royal of Scotland, for payment of a very small acknowledgment, which would encourage strangers to come and settle in this kingdom as in Holland, where every man is free of the trade upon payment of ten guilders; whereas now we are forced to buy all things abroad, because our deacons and trades here will allow no expert tradesmen to live amongst them; nor are any admitted to be artificers, except such as either married the daughters of tradesmen or have served as prentices; whereby the ignorance and unskilfulness of workmen is transmitted to posterity, without any possibility of reformation. This, Sir Andrew Ramsay opposed, to insinuate himself with the trades of Edinburgh, who are absolute disposers of magistracy; and this he obtained from the commissioner, (Duke of Lauderdale,) because he was still employed by his Grace to win the commissioners of burghs to assent to what was proposed; upon whom Sir Andrew had a great influence, because he, as provost of Edinburgh, was their president, and he had always the leading vote in Parliament. And thus the publick good is made subservient to the meanest interests, and is overruled by the most inconsiderable and unworthy persons."‡

Statutory Modifications.

It was not long afterwards that the claims of the burghs of regality for a participation of the privilege of foreign trade were brought into debate, and were terminated by the Statute in 1672 already referred to. The keen discussions, which preceded and led to that measure, had not however any direct effect on the peculiar privileges of craftsmen in royal burghs, which had nearly from the first been shared by the freemen of burghs of regality and barony; and one of the first very important relaxations of the exclusive system did not take place till about the middle of the eighteenth century. We allude to the statute 24 Geo. II. c. 31, for regulating and encouraging the linen manufacturers of Scotland, which enacts, *inter alia*, that every "maker of heckles, spinning-wheels, weaving-looms, and weaving-reeds, and also every weaver or manufacturer of linen, flaxen or hempen cloth, or every heckler or dresser of flax or hemp, shall and may, and is hereby authorized to exercise the said trades within any city, town, corporation, burgh, or place in Scotland, without any let or hindrance from any person or persons whatsoever, and without being chargeable or charged with payment of any entry-money or other duty whatsoever, for or in respect of their following such trade or business."

Statute abolishing those of Linen Weavers, &c.

Practical Effect of that Statute.

Although the provisions of this Act were strictly applicable only to the manufacture of the enumerated articles, and did not further touch the exclusive privileges of this particular craft, yet, in practice, it has led, in almost every burgh in Scotland, to the abandonment of their privileges in all other respects; and the trade of weaving may be considered as now completely open. The existence of the incorporations has not, however, been otherwise affected; and in the regulation of their own members, and the enactment of bye-laws, as well as in the administration of their funds, they continue to exercise their accustomed powers. In none of the most important burghs have the effects been injurious, even to the corporations in question;

* Act. Parl. Scot., 1661, c. 275,—vol. vii. p. 255. † Act. Parl. Scot. 1661, c. 310,—vol. vii. p. 284.
‡ Mackenzie's History of Scotland, p. 176.

and in all they have been useful to the community. In Edinburgh and in the Canongate the corporations of Weavers report that they have suffered no injury, inasmuch as they had no prosecutions for thirty years, and had not found that the privileges formed any inducement to enter. The corporation of Weavers of Cupar has been so prosperous that it is wealthier than most of the other corporations there. In Dundee it was stated, that the linen trade is the most flourishing branch there. Weaving has, for many years, been the staple trade of Dunfermline, which has prospered more especially since 1760, which date is a few years subsequent to that of the statute under consideration. While great advantages have been experienced by the community there, no injury appears to have been experienced by the corporation, the members of which are four times more numerous than those of any other corporation in the burgh. Exclusive Privileges.

A cause different in its origin and its objects, but producing similar results, introduced a series of important statutory modifications of the exclusive rights of craftsmen, as well as of guildries. All persons who had been in the army or navy have been, generally speaking, entitled to exercise any craft, without belonging to a corporation. For nearly two centuries a Statute to that effect has been passed at the end of each war; and the last and governing Statute (56 Geo. III. c. 67) is substantially the same as those which preceded it. The title of it is, "An Act to enable such officers, mariners, and soldiers, as have been in the land or sea service, or in the marines, or in the militia, or any corps of fencible men, since the 42nd year of his present Majesty's reign, to exercise trade." The preamble sets forth, that some of those enumerated "are men that use trades; others that were apprentices, and who have not served out their times; and others who, by their own industry, have made themselves apt and fit for trade; many of whom, the wars being now ended, would willingly employ themselves in those trades which they were formerly accustomed to, or which they are able to follow and make use of for getting their living by their own labour; but are or may be hindered from exercising those trades in certain cities and corporations, and other places in this kingdom, because of certain bye-laws and customs of those places." The enactment (sec. 1) therefore empowers them, their wives and children, to set up and exercise such trades as they are apt and able for, in any city, town, or place within this kingdom, without any suit, let, or molestation of any person or persons whatsoever, for or by reason of exercising such trades. And section 3rd extends the privilege to soldiers in militia and fencible regiments under some limitations. Statutes creating King's Freemen, 22 June 1816.

In dealing with these statutes, the courts of law, more especially in recent times, have construed them liberally, but still in such a manner as to bar encroachments not authorized by their intendment. They have held as included all who had been enrolled in the army, however short the time of service; and personal skill has in one case been judged unnecessary.

The Practical Effect of the introduction of king's freemen has necessarily been greatly to diminish the operation of exclusive privileges. In almost every burgh in Scotland there are numerous artisans of this class; and in some the result has been a conviction that the value of the exclusive privileges has thus been so much diminished as to render their abrogation immaterial. Practical Effect.

The same spirit which dictated these statutory Modifications has obviously, during a long series of years, been gradually affecting the Judgments of the Courts. The legality of exclusive privileges had, indeed, been recognised; and, as we have already stated, there are numerous cases in which the courts deemed themselves bound to enforce them. But, without derogating from the letter of those institutions, the courts have year by year confined them within narrower limits, according as the increase of town population, the enlargement of external traffic, and the advance of mechanical discovery, rendered it expedient that the community at large and new classes of artisans should be relieved from the monopoly. Modifications by Judgments of Courts of Law.

The courts, after having at first enforced the statute 1592, debarring the exercise of crafts within suburbs, encroached, in successive cases, upon its provisions; and have ultimately determined that, having never at any time been much in observance, it has long been in desuetude, and cannot now be enforced. The result of this judgment has been to confine the exclusive privileges within the boundaries of the royalty, and the consequences have been extensive and beneficial. In all the large burghs, as Edinburgh, Glasgow, Aberdeen, Perth, Dunfermline, Dumfries, Ayr, Inverness, Leith, and Stirling, there are numerous unfree tradesmen beyond the privileged district, who exercise the same calling as those within its limits.

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Still further encroachments, on what might have been originally regarded as falling within the exclusive privileges of the crafts, have gradually taken place, in permitting unfreemen to manufacture, even within burgh, those secondary or subordinate articles required for the transport of privileged commodities. The manufacture of commodities for exportation has also been permitted to unfreemen.

It only remains to be added that, in the progress of improvement in the mechanical arts, and of refinement in those subservient to the more luxurious habits of modern society, various trades have grown up which are employed on the same materials with the old and privileged crafts, but which have been deemed so essentially different in character as to exempt them from the operation of any exclusive privileges.

Many corporations of craftsmen have, like the guildries, attempted to render their exclusive privileges less obnoxious by granting licences to unfreemen. This system has been adopted in some burghs, as Edinburgh, Aberdeen, Banff, Dunfermline, and Dumbarton; while in others it has not, as Inverness, Montrose, Perth, St. Andrews, and Stirling.

3. *Convenery.*

In many burghs there exists an aggregate body composed of representatives of the different corporations, called the Convenery, or Convener's Court. The functions of this body are to consult on all matters in which the general interests of the crafts are concerned; to protect their rights and privileges, as by assisting corporations in prosecuting unfreemen; to determine all differences that may arise among them; and, in some cases, to make bye-laws relative to the several corporations. But this court has no judicative power, and their decrees have been held to be null; but, by reason of the custom of the burgh, a convenery may fine for contumacy or absence, and it may make bye-laws. The convenery, in some instances, has assessed the several corporations, for supporting a fund which is applied for the common benefit. There are conveneries in Edinburgh, Glasgow, (there called the Trades' House,) Aberdeen, Dundee, Banff, Perth, Inverness, Dumfries, St. Andrew's, Leith, Lanark, and several other burghs. There were slight differences in the constitution of the convenery in the different burghs; but ordinarily it consisted of the deacons of the trades, who elected out of their number a chairman, who was formerly called the deacon warner, but now the deacon convener, and he, in all burghs, is accounted the head of the tradesmen. Since the recent change upon the burgal constitution, the deacon convener has, in many towns, been elected by the whole body of the crafts.

4. *Evidence relative to the Expediency of abolishing the exclusive Privileges of Craftsmen.*

In recommending the entire Abolition of the Exclusive Privileges of commerce belonging to burghs, we have thought it the less necessary to enter into much argument, or any lengthened statement of evidence, inasmuch as it may be said with truth, that in its practical operation, the privilege has already ceased to exist, or to be acted upon. With the privileges of the incorporated crafts the case is different. In many burghs they continue to be enforced with great rigour, and in comparatively few have they been entirely abandoned; and although the general principles of policy applicable to the subject do not seem, in this place, to require any extended explanation, it seems fit, in proposing to deal with what is still regarded by many as a vested right, to submit the results of the evidence, bearing on the case, which we have collected. Its general import we hold to be, that the inhabitants of burghs are injured by the operation of exclusive privileges: That there have been examples of great evil inflicted on the trading part of the community by the enforcement of monopoly: And that, no real advantage having accrued to the privileged classes, the privileges might be abrogated without loss. In much the greater number of towns a majority of the members of the corporations, as well as the inhabitants generally, entertain opinions decidedly favourable to this abrogation; while in other towns the opinions of the craftsmen are much divided, and in some are opposed to the prevailing wishes of the community.

Opinions in favour of Abolition.

In the city of Aberdeen, "the guildry complain much of the exclusive privileges of the trades, and the trades of the exclusive privileges of the guildry. Both parties would be pleased to see the distinctions between them done away; and, with very few exceptions, the witnesses examined are of opinion that the exclusive privileges of the guildry and trades should be abolished entirely, as hurtful to the community, and

of no advantage to the trades themselves." The evidence given in Dundee—a town noted for its rapid increase in prosperity—upon the "question of exclusive privileges, decidedly preponderates against them, and establishes that it would be for the advantage of the community, and very little, if at all, prejudicial to the corporations, to abolish them." Dunfermline is an inland manufacturing town of considerable importance. "At a public meeting of the inhabitants, held on the 25th October 1833, resolutions were entered into against the corporation laws." In Leith, "although there was some difference of opinion, a great majority of the craftsmen examined concurred with their fellow townsmen in thinking that no injury would arise from the abolition of those privileges, and that the bodies could probably be maintained as Friendly Societies, if the benefits were properly regulated." Opinions to the same effect prevail in some of the burghs of the western manufacturing districts. Thus "the Commissioners found that there was a pretty general sentiment in Ayr, as in other places, as to the inutility and inexpediency of the exclusive privileges of the trades. Almost every intelligent and independent member of the community, with whom the Commissioners conferred, concurred in thinking them prejudicial; and even the better informed tradesmen themselves gave the same opinion to the Commissioners." There are "few burghs in Scotland where the inutility of such incorporations has been more generally acknowledged, or where their impolicy and injurious consequences have been more fully demonstrated" than in Irvine. All the deacons "concurred in giving it as their opinion, that the exclusive privileges were not only of no value to the incorporated tradesmen themselves, but in many instances, most injurious to the trade and prosperity of the community." Exclusive Privileges.

Where the welfare of the towns depends on a trade of consumption, or on that combined with some portion of manufactures or commerce, the same views are prevalent, subject, in some instances, to comparatively unimportant modifications. At the head of this class is Edinburgh, with relation to which, "the Commissioners ascertained, that the general opinion of well informed persons acquainted with the state of trade and manufactures within the city was, that the time had arrived when the exclusive privileges might safely be taken away, leaving the various incorporations in possession of their funds as Benefit Societies, with any other advantages of which they might be possessed." A difference of opinion exists among the corporations; for, while some see no danger from abolition, others think that they should be preserved. Among the latter there were some whose views obviously originated in misconception; others who deemed that the existing members should be privileged; and others that, without some equitable equivalent, the abolition would be injurious to their charity funds. In Stirling, "there is a general feeling, among all classes, that the exclusive privileges of the various incorporations are disadvantageous not only to the community at large, but detrimental to the interests of the members of the crafts themselves, by opposing obstacles to the prosperity of the burgh, through the increase of trade and of population." In Arbroath, "it seems to be a very general opinion, that the exclusive privileges of the incorporations should be done away, as being of little value to themselves, and hurtful to the community." And, "at a meeting of the incorporated trades, held a short time before the Commissioners visited Arbroath, they resolved, by a majority, that their exclusive privileges ought to be done away; and all the parties who appeared before the Commissioners were of the same opinion." In Montrose, "the result of the inquiry on the question of the value of exclusive privileges was that, in the opinion of the best informed persons, the possession of exclusive privileges was not necessary for the corporations in the present state of society." And "that, though many of the individual members of the trades might dislike to lose their privileges, there seems to be a very general opinion that, provided the funds of the corporations were preserved entire to them, there would be very little disadvantage to the individual members in giving up the exclusive trade generally over Scotland." In Kirkaldy, the general opinion of those capable of judging is, that the exclusive privileges of the trades have so operated on the community, and the corporations themselves, as to justify their abolition. In Cupar, although there is some diversity of view, the same sentiment greatly preponderated. Persons of intelligence in Inverness, connected both with the guildry and the trades, were of the same opinion. In a town very distant from Inverness, but forming, like it, a provincial capital, sentiments hostile to privilege were expressed. "The Commissioners examined the convener and the deacons of the incorporated trades of Dumfries, and they found that they were unanimous in thinking that the exclusive privileges are of no benefit to the

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town; and there was considerable doubt as to whether those exclusive privileges were of any advantage at all even to the craftsmen themselves."

If the reasons on which privileged bodies were supported in an early stage of society could still operate, opinions favourable to them might be expected to exist in the smaller towns, and especially those situate in remote parts of the country. But this appears not to be the fact. At Kirkwall, a committee of council stated, in a document prepared by them, "that they considered the exclusive privileges of the corporations as decidedly disadvantageous to the burgh." In Elgin, the opinion of the great majority of the inhabitants was, "that the community suffers, and the corporations and their individual members take no benefit, from their privileges of exclusion." At Forfar, "in examining as to the value put upon these privileges by the corporations themselves, the Commissioners came to a distinct opinion, that they were generally considered in this burgh as an evil, and that the corporations would willingly give them up." The trades of Linlithgow think, "that their exclusive privileges are now neither advantageous to the community nor to themselves." Those of Lanark anticipate the abolition of the exclusive privileges of the crafts; and the opinion there was general that they should be no longer maintained. In Haddington, "it is the opinion of persons well acquainted with the burgh that the exclusive privileges of the incorporated trades are prejudicial to the community; and that the incorporations themselves would not sustain any serious injury by their being abolished. The trades themselves do not seem to make any serious objection to doing away their exclusive privileges, though they think it hard that those members who have entered lately should not get some compensation for the entry-money paid by them." In Kelso—a border town—the office-bearers of the corporations unanimously concurred in the opinion expressed by the other inhabitants, "that these privileges are nowise beneficial; and that they ought to be "abolished as injurious to the freedom of trade." In Kirkcudbright—a town situate at the south-western extremity of Scotland—the opinion is, "that they are of little or no benefit to the parties, while they are very injurious to the community, and often prevent respectable tradesmen from settling in the place." And in Sanquhar, an inland town, the same opinion prevailed.

Opinions unfavourable.

While the great mass of evidence is in favour of its abolition, there are some towns in which the members of corporations, differing from the body of the community, are either much divided in opinion, or are friendly to privilege. Examples of this division of sentiment are afforded by the corporations of Banff, Brechin, Crail, Elgin, Kilmarnock, and Perth. In St. Andrew's, where commerce is in a very low state, the desire of upholding exclusive privileges predominates. And in Glasgow, "while there appears to be the same prevailing impression among persons of intelligence, and among the public generally not connected with the incorporations, that such privileges ought no longer to exist and may be safely abolished, the Commissioners found that within the incorporations themselves there was a much stronger inclination to support them than in any other burgh."

5. *Abuse of Corporate Privileges.*

The opinions of the opponents of exclusive privilege are chiefly founded upon those principles which demonstrate the injustice and impolicy of monopoly, and the fallacy of the system which would substitute inspection or assay, in place of competition, as the safeguard of commercial honesty. But, in combination with these general views, there are subordinate but important objections, derived from Abuses which seem inherent in the practical operation of exclusive privilege; for much evil has resulted from them to many individuals, and to the corporations themselves. Those abuses which are sufficiently important to merit special notice, are—the arbitrary exaction of exorbitant entry dues,—the consequent injury to rising tradesmen,—oppressive and expensive prosecutions,—and the iniquity resulting from the mode of granting licences and ascertaining the right of immunity.

Arbitrary Exaction of Entry Dues.

What we have stated as to guildries applies to incorporated crafts, namely, that much higher rates are exacted from strangers than from the sons, sons-in-law, or apprentices of members of corporations. In many towns there exists no material objection to the mode in which these fees are exacted; but in some burghs exorbitant Dues are demanded, are increased without cause assigned, and are arbitrary as to their amount. In Aberdeen, the magistrates and council raise the fees of entry of guild-brethren as they think proper. The corporations exercise the power of raising or lowering their fees as they please. Those payable by a stranger, including

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the town-fees, are, to the hammermen £85, the shoemakers £90, and the wrights between £90 and £100: the sums are not in proportion to the amount of the funds of the different crafts; for the funds of the hammermen are considerably larger than those of the wrights; and, therefore, the higher sum has not been paid for a higher patrimonial benefit. There are in Dunfermline exactions which though not high in amount are numerous, and to which there are objections in many quarters. "The fees of admission to the guildry of Inverness have, during the last 30 years, been capriciously raised and lowered. From 1826 they have been £20, but ever since they were thus supposed to have been fixed there have been some exceptions. In a word, this body claims and exercises the right of favouring some individuals by admitting them at low fees, and of subjecting others obnoxious to them to a severe penalty." All the corporations assume the same power of arbitrary exaction, which, in some instances, has been most unjustly exercised. The deacon of the shoemakers, in 1833, "was the first who paid £31 10*s.*,—a previous offer by him of £20 having been refused. This he attributes to his having come from London and established his business beyond the bounds of the royalty, and having become the partner of a company within the royalty consisting of persons not operative tradesmen, which created some jealousy against him. The deacon's former partner in that concern (a banker) was compelled to pay £50 on entering the incorporation, and the incorporation might have rejected him altogether because he was not an operative craftsman." The funds of this corporation being small, these rates must have been charged for the causes assigned, as no pecuniary equivalent could be given. The corporation of fleshers of Stirling consists of eight persons. Two of these only are resident, and two others are their sons, but not connected in business with them. The amount of entry money was successively raised from £25 to £52 10*s.*, to £60, and to £100. Evidence was likewise required from the applicant that he was worth £150 of free property. Since the last rise none have been admitted to the freedom, with the exception of two sons of the present resident members, from whom, in place of the large sum of entry money, a fine of £8 each only was exacted. This corporation has valuable privileges connected with their trade, as the choice of the 12 best stalls in the market rent free. But their accumulated property is insignificant. In these instances, the object of the corporations in exacting high rates obviously was to exclude strangers from participation in their trade. In other instances, this motive has been combined with that of excluding strangers from a right to share in a large accumulated fund. The bakers of Glasgow have heritable property to the amount of £30,000. The entry money for their sons is £3, and that for strangers £100. The latter motive alone operates in other cases. The glovers of Perth have heritable property amounting to nearly £1,100 a year. The sons of freemen, who need not be operative, pay £1 of entry money, and strangers, who must be operative, £100. This system has produced results very injurious to young tradesmen. For example, "it has been stated that many young men are ruined by being forced to enter with the incorporations before they can afford it, and several instances have been mentioned to the Commissioners where they have soon afterwards failed and become a burden on the funds of the incorporation."*

Oppressive Lawsuits.

Much Oppression has been occasioned by Lawsuits which have arisen in enforcing exclusive privilege. The number of cases which are found in the Law Reports, and the uniform system, which, from our investigations, we have shown to be in operation throughout the burghs of Scotland, afford conclusive evidence of the hardship thus produced. The corporations, as well as the community, have suffered from these multiplied and protracted law-suits, because those funds, which might have been applied to charitable purposes, have thus been expended without any adequate return, even where successful.

Iniquity in granting Licences.

Although Licences tend to soften the rigour of the monopoly, yet much Injustice may prevail in carrying the system into execution. In all cases, the grant is one of pure favour, for we are not aware of any example, even of a bye-law, which renders it imperative. In Edinburgh, some of the Corporations "have had recourse to a system of composition or licences, which has been partially and unjustly exercised, and, not being regulated by any fixed law, has led to great abuse." In Dunfermline, the corporations grant and refuse licences according to their caprice, occasionally withholding any grant, and occasionally declining a renewal, without assigning any cause but their pleasure.

* Aberdeen.

Exclusive Privileges.

6. *Towns where there are no Corporate Privileges.*

While exclusive privileges exist in most of the towns of Scotland, there are others either wholly or partially exempt from their operation. These towns may be divided into four classes. *First*, Those in which there are neither burgesses, nor guild-brethren, nor incorporated crafts. *Secondly*, Where there are merchant-freemen, but no crafts. *Thirdly*, Where there are crafts, but no guildry; and, *Fourthly*, Where there are crafts without exclusive privileges. The towns are situate in different parts of the country, and vary in size, population, and traffic; but in none of them has it been said that the slightest disadvantage has arisen, or is likely to arise, from the immunity which they enjoy: on the contrary, there are among them some of the most flourishing towns in Scotland.

1st Class.

1st. Among the first Class are Greenock and Port-Glasgow. In the former exclusive privileges are entirely unknown. The charter empowered the magistrates and council "to admit merchants, and all kinds of tradesmen and others, to be free burgesses within the burgh, no more being exacted for admission than 30 merks Scots." But "there is, it is said, no instance on record of any burgesses ever having been admitted." In Port-Glasgow, "there are no burgesses, nor guild-brethren, nor incorporations, nor any persons entitled to exclusive privileges of any kind." In Falkirk, there were formerly burgesses created by the superior, and corporations having charters from him; but now there are no corporations, or persons possessed of exclusive privileges. Burgess-ship is nominal in Peterhead, and there are no corporations. In Newton-upon-Ayr, there is an annual ordinance by the freemen, that no unfreemen shall trade or manufacture within the bounds of the burgh without leave; but the law has not been enforced for 40 years, every person being permitted to trade without licence, or paying fees. Many smaller towns belong to the same class, as Dunse, where the corporations have become extinct, and Portobello, Cromarty, and Galashiels, where no privileged bodies ever existed.

2nd Class.

2nd. There are many of the smaller towns in which there are merchant-freemen, but no crafts. In some, as Forres, there are guild-brethren. But, in the greater number of instances, there is no guildry, and the privilege is simply that of burgess-ship, as in Annan, Stranraer, Wigton, Campbeltown, Dunbar, Dysart, Stonehaven, Fraserburgh, Nairn, Tain, Wick, and several others.

3rd Class.

3rd. In several towns there are incorporated crafts, but no guildry, as Leith, Haddington, Jedburgh, Kirkaldy, Kirkwall, Kirkcudbright, and others of the same class.

4th Class.

4th. Associations of craftsmen possessing all the rights of corporations, except the privilege of monopoly, are known in towns, some of which are noted for their manufactures. "There are incorporations in Paisley, but they neither enjoy nor claim any exclusive privileges, and were erected by the magistrates, merely to enable them to raise funds by taxing those who chose to enter with them for charitable purposes. Since the establishment of Friendly Societies by Act of Parliament, they have managed their affairs according to the rules established by these Acts." In Leith there are three important corporations, the shipmasters, merchant company, and maltmen, which have no exclusive privileges of trade. There are in Dalkeith several associations of the same character: and in Hawick, a most prosperous manufacturing town, there are seven trades, regularly incorporated, but devoid of privilege.

Although unprivileged, these corporations, as well as the corporation of weavers already mentioned, have prospered, as the right to a participation in their funds raised by contributions, and affording corresponding benefits, has formed a motive sufficient to induce so many tradesmen to enter, as to have continued the perpetual succession. To some of them those only who *bonâ fide* exercise the particular craft are admissible, while to others persons of all trades are admitted.

7. *Abolition of Exclusive Privileges.*

On a deliberate review of the history and operation of the exclusive privileges conferred on the royal burghs of Scotland, almost at their first foundation, and since, partially, at least, communicated to burghs of an inferior class, we have arrived at a decided opinion as to the impolicy of their continuance. With whatever justice or political wisdom a monopoly in commerce and manufactures may, in a rude age, have been regarded as conducive to the general welfare, and may, at least, have been considered as a fair and reasonable compensation for those peculiar

duties and obligations to which the freemen of burghs were made liable, it seems impossible, at the present day, to maintain its defence on either of these grounds. That the concession of such privileges is utterly at variance with the plainest and best established principles of public policy it is scarcely necessary to state; but it may deserve to be remarked, that, long before these principles were generally understood or admitted, there appears to have been a disposition in the Scottish legislature gradually to relax the fetters of monopoly, and to narrow the range of existing privileges. The persevering resistance or evasion manifested by the unprivileged classes of the community, is clearly demonstrated by the numerous statutes that were obtained for the purpose of upholding the rights of this class of burgesses; while, on the other hand, by means of very liberal construction, or of prudent compromise, the ancient severity of the law has been gradually yielding to the influence of popular opinion. In the burgal monopoly of foreign trade this tendency had become very decided before the close of the seventeenth century; and although the law, modified and relaxed in the manner to which we have alluded, may be said still to subsist, yet, in its practical operation, it has evidently become little else than a dead letter. In the department of privileged manufacture and handicraft, the progress of liberal opinion and practice has been slower, and has encountered a more obstinate resistance on the part of those who were in possession of its apparent advantages. Its evils have been, on that account, the more sensibly and generally felt, and much expensive litigation has been the natural consequence; from which has resulted no real benefit to the privileged classes, and much vexation to the unfortunate objects of their attack. To the burghs, as a large community, and even to the particular crafts who have been the most jealous of encroachment, it cannot be seriously maintained that exclusive privilege, mutilated as it has been in various ways, is deserving of the slightest countenance; and in the opinion of the greater number, even of those personally interested in its continuance, its advantages bear no proportion to the evils and inconveniences which must always attend it.

Exclusive Privileges.

We, therefore, feel no hesitation in recommending that all exclusive privileges of trade or of handicraft belonging to burgesses, or to burgesses and guild-brethren, or to the members of incorporated crafts, should be directly and completely abolished. It is not our intention to propose any measure directly affecting the future subsistence of the incorporated bodies within burghs; and if the effect of thus stripping them of their exclusive privileges should hereafter be to diminish the inducements to become members of those corporations, and affect the general revenue of the burghs, we have already suggested that, so far as necessary, such deficiencies should be met by assessment.

8. *Future Administration of Funds of Corporations.*

With regard to the property accumulated by the minor corporations, while we are satisfied that in the greater number of cases the Funds of Corporations have been and are likely to be faithfully administered by those bodies, yet cases have occurred and a disposition has been recently manifested by some of the smaller incorporated trades which seem to us to render it necessary that a power should be placed in some officer, or committed to the magistrates of each burgh, to call to account the officers of such corporations—to enforce the application of their funds to their legitimate purposes, and to secure the public and all having interest against the undue exaction of entry money from applicants entitled to be admitted.

Union of Districts.

VI.

UNION OF BURGHS AND CONTIGUOUS DISTRICTS.

In our inquiries "as to the boundaries over which the municipal authority and jurisdiction ought to extend, and as to the union and consolidation of contiguous and subordinate burghs or adjacent districts, in respect of their municipal government, local jurisdiction, and otherwise," the difficulties of the investigation have been greatly diminished by the conclusions at which we have already arrived.

The important interests which the inhabitants of a town have in common, render it expedient that they should be placed under one local government, with regard to matters of police and jurisdiction. To all it is essential that the peace of the town be preserved, that there should be functionaries constantly ready to repress petty disorders, and that uniform measures should be enforced for protecting the health and safety of the inhabitants. Their constant dealings with each other, and the collision of rights and interests occasioned by the contiguity and intermixture of small properties, seem also to render it desirable that there should be one judicatory to which all should be equally subject, and may equally appeal.

These considerations could not be overlooked in the constitution of burgal communities; and we may assert, without danger of error, that in early periods the royalties of burghs not only comprehended the whole territory and population which, with any degree of correctness, could be styled urban, but, in many instances, considerable portions of land which belonged to the inhabitants either in their private or corporate capacities. It would have been indeed adverse to every principle of sound policy to have divided those who possessed the same character of a town population, and had substantially the same common interests, into two distinct and separate classes; the one bearing burdens and enjoying privileges and immunities, because accident had placed them on one side of an arbitrary line; and the other exempted from these burdens, but at the same time having no part in the relative privileges and immunities, because a similar chance had placed them upon the opposite side.

But that which would have been unwise, and even preposterous, in the formation of burghs, has been often the result of the progressive increase of towns in this part of the island. Extensive suburbs have, in many instances, been built, and in some they are equal to, or even exceed in magnitude, the burghs to which they are contiguous. They are, in popular understanding, parts of the burgh, and are undistinguished in their aspect and the character of their inhabitants from the royalties. But they are quite distinct in relation to privileges, burdens, and jurisdiction.

Evil Effects of Disunion of Burghs from Suburbs.

The evil Effects of the Disunion of the Burghs and their Suburbs are, in general, such as might be anticipated. And they have been increased in many instances by the irregular, and sometimes doubtful, boundaries between royalties and the contiguous districts. Edinburgh may be taken as an example. Within the royalty, and in some instances almost in its centre, there are numerous streets, and parts of streets, squares, and even houses, which, though surrounded on all sides by the royalty, are under a different jurisdiction. In several instances the boundaries are so ambiguous as scarcely to admit of accurate ascertainment.

Partial Remedies.

To lessen or remove the inconveniences now stated, it has not unfrequently happened, especially in the larger and more important burghs, that, as the town population expanded, a corresponding extension of the royalty was made by local statutes. Thus, in Glasgow, the royalty was extended in 1800 over a part of the barony parish, and, in 1830, the criminal and civil jurisdiction of the burgh was extended over the lands of Blythswood and others. In Edinburgh the royalty received successive enlargements, by statutes passed in 1767, 1785, and 1809.

In regard to police more particularly, wherever it has been found necessary to apply to the legislature for additional powers, it has seldom, if ever, been deemed expedient to confine the operation of local statutes to the mere limits of the ancient royalties. On the contrary, the natural boundaries that comprise the town population have, in most instances, been regarded. And even where, from the proximity of jurisdictions more or less independent, separate systems of police have at one time been resorted to, the progress of opinion has generally been in favour of a junction; as, for example, in Edinburgh, where the southern districts, the Canon-

gate, the Calton, and the two Portsburghs, are now all united, under one common police statute, with the ancient and extended royalties of the city. It is true that, in Glasgow, there has not hitherto been a similar amalgamation of the police jurisdictions; and that, at this moment, opposite opinions are entertained on the subject; but the existence of so many separate and independent establishments of police, as at present exist in Glasgow and the contiguous districts, is attended with great practical inconvenience. Union of Districts.

Hitherto, however, the adoption of a general measure of extension was opposed by powerful Obstacles. One of these was the monopoly of trading corporations, and another was the imperfect or faulty structure of burgal judicatories. Obstacles to Union obviated.

But we have submitted to your Majesty, that the exclusive privileges of trading corporations ought to be abolished, and that the judicial functions of burgh magistrates should be limited to matters of police. We have, farther, arrived at the conclusion, that, as the councils now truly represent the inhabitants, there should not be any separate boards or commissions for the administration of police.

If our suggestions are adopted, no material difficulty remains to be combated; and we are of opinion that, in such case, it is expedient that, under certain limitations, there should be an Union of the burghs, and those districts adjacent to them, of which the inhabitants can, with propriety, be regarded as *town population*. Expediency of Union.

Of course, in fixing upon any line as that which shall be considered the limit of a town and its population, the choice must always, more or less, partake of an arbitrary character. But, as we consider it of importance that the principle of classification should be clear and simple, it appears to us that no better lines of demarcation can be suggested than those which have already been adopted, and are now familiar to the public, as the parliamentary boundaries which separate the constituency of the burghs from that of the counties. Boundaries suggested.

In general, these boundaries comprehend the whole territory of every burgh, with such parts of the contiguous district as it was expedient to unite to the burgh. But in some instances the burgal territory stretches beyond the parliamentary boundaries; and for these cases we mean to suggest a special provision.

The individuals, who compose the population within these limits, are already united by one of the most powerful ties that can bind a community together. They have the same representative in Parliament, chosen by their common suffrages, bound to support and defend their common interests, and responsible to all of them alike for the discharge of his public duties.

If the inhabitants, though united in parliamentary representation, in other respects remain separated, subject to different jurisdictions, entitled to different privileges, and with local interests not unfrequently conflicting, their demands upon their representative would often be incompatible, and a struggle for supremacy between two classes of the constituency would be the unavoidable consequence.

In the greatest number of burghs, the expediency of extending them to the parliamentary boundaries is admitted. The conflict of jurisdictions, the indistinctness and uncertainty, in many instances, of the boundary which separates one district from another, the collision of co-ordinate authorities, the injurious operation of local burdens and privileges, and their responsibility of those who have subordinate districts in charge, to the parties more immediately interested in the welfare of these districts, are admitted on all hands to be evils which call for redress. Difficulties, however, have arisen in relation to some burghs, in consequence of the debts and taxes under which they labour. But we are inclined to think, that the advantages of a consolidated system may be secured, without in any material degree exposing it to those objections which have been urged against a change, otherwise in the highest degree expedient.

We have the less hesitation on this subject, because the principle of extension has already been acted upon by the legislature. By the recent Act, granting constitutions to certain towns and burghs, which, though not royal burghs, had by a previous Act, been allowed to send members to Parliament, it is enacted, that the magistrates and councils of these burghs "should have such and the like rights, powers, authorities, and jurisdictions, as is or are possessed by the magistrates and council of any royal burgh, in Scotland, and *such rights, powers, authorities, and jurisdiction shall extend equally over all and every part of the limits of such burghs and towns*," as extended and defined for the purpose of parliamentary election. 3d & 4th Gul. IV. c. 77.

We therefore propose,

Union of Districts.

1. That, in every royal burgh, the magistrates and councillors shall possess the same rights and powers over the whole territory and inhabitants within the parliamentary boundaries, which they now, or may hereafter, possess, within the limits of the present royalty.

2. That the whole of the extended territory shall be subject to the same jurisdiction, criminal and civil; and all subordinate or separate magistracies and police establishments, within the said limits, shall cease and determine.

3. That, when a part of any royalty is beyond the parliamentary boundaries, it shall not be subject to the burgal jurisdiction, but be left to the jurisdiction of the sheriff, the tenure of real property in such part of the royalty remaining unaltered.

4. That the qualification of the electors of town councils shall be uniform throughout the whole united districts.

5. That the inhabitants within the annexed districts shall not be liable to taxation for the purpose of discharging any debts, either principal or interest, contracted by the burgh prior to the period of the annexation.

6. That the clear annual revenue of every burgh, and of the districts united to it, shall be applied to defray the expense of the common municipal establishment; and, if there be a deficiency after such application, it shall be supplied by an assessment on the whole inhabitants.

The principle of union which we have recommended may, perhaps, be applied in a peculiar manner to some small royal burghs situated on the coast of Fife. These are, Pittenweem, Easter Anstruther, Wester Anstruther, and Kilrenny; towns of inconsiderable population, (the united number of the inhabitants not amounting to 5,000,) and by reason of their contiguity almost forming one town. It seems to be expedient that they should be united in their magistracy and police; but some difficulty occurs with regard to Pittenweem, on account of the state of its property and debts. We therefore humbly suggest that the three burghs of Anstruther, Easter and Wester, and Kilrenny, should be united into one municipal corporation, with one common council and magistracy. Pittenweem may be included, if the difficulty to which we allude can be obviated, and in that case it should be provided that one magistrate be resident in Pittenweem, and another in one of the other three burghs.

As it is not a necessary consequence of the junction now proposed that the existing parochial or ecclesiastical establishments be altered or affected, however expedient, in some instances, new arrangements may be deemed, we have refrained from including these in the plan of municipal union which we have found ourselves called on to recommend.

Constitution of Magistracies.

VII.

CONSTITUTION OF MAGISTRACIES.

1. Burghs Royal and Parliamentary Burghs.

In pursuance of our instructions, we have considered "the manner in which the councils, magistrates, and office-bearers in burghs, are appointed and continued in office, and have also considered what changes in these respects might be advantageously made; as also what might be fit to be done for the better regulation of small or decayed burghs."

In a preceding part of this Report we have stated all that seems important to be kept in mind as to the internal government of burghs, prior to the date of the recent statutes passed in the 3rd and 4th years of your Majesty's reign, to "alter and amend the laws for the election of the magistrates and councils of royal burghs in Scotland;" and also "to provide for the appointment and election of magistrates and councillors for the several burghs and towns which now return, or contribute to return, Members to Parliament, and are not royal burghs." 3 & 4 Will. IV. cap. 76. Cap. 77.

Qualification of Electors.

By these statutes, the same Qualifications required in the Electors of representatives in Parliament are adopted and applied to the election of the councils of burghs, namely, that they shall either occupy, as proprietors or tenants, houses or other tenements within the burgal limits of the yearly value of ten pounds, or shall be the true owners of such premises, although not occupying or residing therein.

In the course of our inquiries we have found that, among the inhabitants of different classes of burghs, there prevails a considerable diversity of opinion as to the justice or expediency of maintaining this uniform qualification. In towns of the first class, containing an extensive and opulent population, it appears to be generally thought that the standard is by no means too high, and that, although it may perhaps exclude many respectable persons, yet that it secures an effectual representation of the whole community, and that this main object would not be promoted by any change. In some other towns of a lower class it seems to be thought that the relative value and rent of real property are considerably lower than in the former; and that the apparent uniformity of the elective franchise becomes thus productive of a real inequality in the rank and condition of the electors, which could only be corrected by the adoption, in such cases, of a reduced scale of value. And again, in the smaller burghs, of very inconsiderable population or wealth, the still greater extent of this alleged inequality is thought to be aggravated by the difficulty of finding a sufficient number of qualified electors to form a respectable constituency; and, therefore, that, in this class of burghs, another and still lower scale would be required.

In these views there is no doubt a good deal of plausibility, and a certain degree of truth. But that the evil has not operated to the extent that seems to be imagined, appears to be proved by the unquestionable fact, that the relative proportion of qualified electors to that of the whole population is not greater in the large than in the smaller burghs, to an amount that seems to indicate the existence of any gross inequality of the kind now alluded to.

If, therefore, upon any other grounds, the present franchise should be deemed objectionable, still we should not be disposed to recommend the adoption of a diversity of rates in the different burghs. Indeed, it appears to us that the introduction of any diversity of this kind, which, in order to be perfect in theory, must be also variable and fluctuating, would prove more arbitrary and inconvenient in its operation, and more remote from any real equality, than has been attained under the present arrangements. We are further of opinion that, in the event of any general alteration on the present franchise, it must be made to rest on the same basis of property and occupancy on which the present system has been founded; there being no other criterion now existing in this part of the United Kingdom, such as the English Poor's Rate, to which recourse could readily be had.

In the recent Act of Parliament relative to the election of burgh councils, a certain anomaly has been adopted in reference to a few burghs, the expediency of which we feel ourselves compelled to question.

Dean of Guild and Deacon Conveners, Members *ex officiis*.

In each of the burghs of Edinburgh, Glasgow, Dundee, and Perth, the Dean of Guild, elected by the guild-brethren, and, in each of the two former burghs, the

CONSTITUTION OF MAGISTRACIES.

Deacon Convener, elected by the convenery, is, by that Act, declared to be, in virtue of these elections, a constituent Member of Council.

Abolition of the Privilege.

We have been unable to discover any reason why these particular corporations should be endowed with that extraordinary Privilege. In the towns where this anomaly exists, even more generally than in those of an inferior class, the members of these corporations are also, with perhaps a few exceptions, qualified electors under the statute; and the practical result must be, to bestow on them a double share of representation in the general council of the burgh. This we cannot but regard as an evident departure from the general principle and spirit of the Act; and we therefore beg leave to recommend that those seats *ex officio* should be taken away, and that these councillors should be replaced by election. But of course the council must choose either out of their own number, or otherwise, as they may think fit, a dean of guild, or other functionary, to discharge the duties pointed out for that officer under the head of Jurisdiction.

By the first of the Acts above referred to it is enacted, that there shall be chosen "such a number of councillors as, by the sett or usage of each burgh respectively, at present constitutes the common council of such burgh, or, where such number admits of variation, then the smallest number which may, by the existing sett and usage, constitute a full council in any such burgh."

Suggestions as to Number of Councillors in different Burghs.

The Number of magistrates and Councillors in the Burghs of Scotland seems to have been fixed, in ancient times, without regard to any general rule or principle; and the consequence has been, that many of the smaller burghs, whose property and municipal affairs are comparatively unimportant, have councils as numerous, or even more so, than some populous and thriving towns having large estates and revenues, and in which the duties of magistracy are diversified and arduous.

Of these very disproportionate arrangements the following instances may be given as existing in towns of very different magnitude:—In the small burgh of Dornoch, with a population of 504, and a revenue, in 1832-3, of £3 15*s.*, there are 26 councillors. In New Galloway, with a population probably not exceeding 500, and a revenue of £3 8*s.* 2*d.*, there are 18 councillors, while only 14 qualified electors were enrolled in 1832. In Cullen, with a population of about 1,000, and a revenue of £73 0*s.* 1*d.*, there are 26 councillors. In Dysart, with a population of 1,801, and a revenue of £504 15*s.* 6*d.*, there are 24 councillors. On the other hand, in Aberdeen, of which the population amounts to 58,019, and the ordinary revenue, for 1832, was £11,140 4*s.* 7*d.*, the council consists only of 19. In Dundee, of which the population amounts to 45,355, and the revenue, for 1833, was £7,539 16*s.* 2*d.*, the council consists of 21. In Inverness, with a population of upwards of 12,000, and a revenue of £1,838 12*s.* 6*d.*, the number of councillors is 19. Finally, the great cities of Edinburgh and Glasgow, the population of the former of which is 136,294, and of the latter is 202,426, have councils, the former of 33, the latter usually of 32 members.

In the first popular election, the excessive number of councillors in some of the smaller burghs led to inconvenience and embarrassment. In Burntisland an election could not be effected, and the old council and magistrates remained in office. The same was the case in Earlsferry, where there were only 9 qualified electors; and, by the constitution of the burgh, the number of councillors cannot be less than 16. In Crail, where the council consists of 21, the total number of registered voters did not exceed 30. The full number of the council was at first elected, but only 13 accepted. A new election for the eight vacant councillorships took place, but six of those elected did not accept. Successive elections were made, but without being effectual to complete the council, till the eighth election had taken place. In North Berwick, again, where the council consists of 12, the qualified electors were so few, that the election could not be completed without admitting new burgesses, and this could be attained only by lowering the burgess-fine from £10 10*s.* to £5, and afterwards to £2. In Dysart, the number of the council is 24; but at the election of 1833 there was not the requisite number of qualified persons to fill up the council. It is unnecessary to multiply examples.

From these details it appears evident that, in the smaller burghs, the number of councillors ought to be greatly reduced. But, even in many of the larger burghs, the number is greater than is requisite or advantageous for the due management of the pecuniary affairs of the burghs, and for performing those functions of magistracy which are at present, or may in future, be intrusted to them.

In fixing the number of councillors, it is not easy to adopt any rules that will

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not, in particular cases, be liable to objection; but as the amount of population generally bears a near, though not an exact, proportion to the extent of the duties incumbent on burgal magistracies, we beg leave to recommend its adoption as a sufficient criterion for adjusting in each burgh the number of its councillors. Being also of opinion that, in many burghs, though not of the lowest class, the number of the present council ought to be diminished, we have not felt much difficulty in suggesting what may be fit to be done with that lower class of burghs described in our Commission as "small or decayed." Several of these are, no doubt, very inconsiderable, either in population or in the means of adequately defraying the expense of a municipal establishment; and strong reasons might be stated for removing them from the roll of burghs royal, and placing them, as in some former instances, under the charge of the county magistrates. At the same time, as most of these burghs have some remnants of common property, and as that which belongs to individual burgesses is held under a peculiar tenure, it may be doubted whether the maintenance of their present municipal character may not still afford the most convenient machinery for its management. In several burghs royal, indeed, as Dornoch, Easter Anstruther, Kilrenny, and New Galloway, that peculiarity of tenure does not exist; but, even on the other ground, we doubt the expediency of stripping even the smallest of the class of that corporate existence which they have so long enjoyed.

Having these considerations in view, we beg leave to recommend that the royal and parliamentary burghs, in reference mainly to their respective amounts of population, be divided into the eight following classes, to each of which we would assign a proportionate number of councillors.

Classification of Burghs.

It is only necessary to premise, that as, by the Act, one-third of the council, as nearly as may be, must annually retire from office, we have studied to accommodate the total number of councillors to that provision.

Class I.—33 Councillors.

1. Edinburgh,
2. Glasgow.

Class II.—21 Councillors.

3. Aberdeen,
4. Dundee.

Class III.—18 Councillors.

5. Greenock,
6. Leith,
7. Paisley,
8. Perth.

Class IV.—15 Councillors.

9. Aberbrothwick,
10. Ayr,
11. Dumfries,
12. Dunfermline,
13. Inverness,
14. Kilmarnock,
15. Montrose,
16. Stirling.

Class V.—12 Councillors.

17. Airdrie,
18. Annan,
19. Brechin,
20. Campbeltown,
21. Cupar,
22. Dunbar,
23. Dysart,
24. Elgin,
25. Falkirk,
26. Forfar,
27. Haddington,
28. Hamilton,
29. Irvine,
30. Jedburgh,
31. Kirkcaldy,
32. Lanark,
33. Musselburgh,
34. Peterhead,
35. Port-Glasgow,
36. Rothesay,
37. Rutherglen,
38. St. Andrew's,
39. Wick.

Class VI.—9 Councillors.

40. Banff,
41. Burntisland,
42. Cromarty,
43. Dingwall,
44. Dumbarton,
45. Forres,
46. Inverkeithing,
47. Kirkcudbright,
48. Kirkwall,
49. Linlithgow,
50. Nairn,
51. Portobello,
52. Renfrew,
53. Stranraer,
54. Tain,
55. Whithorn,
56. Wigton.

Class VII.—6 Councillors.

57. Anstruther Easter,
58. Auchtermuchty,
59. Crail,
60. Cullen,
61. Falkland,
62. Fortrose,
63. Inveraray,
64. Inverury,
65. Lauder,
66. Newburgh,
67. North Berwick,
68. Oban,
69. Peebles,
70. Pittenweem,
71. Sanquhar,
72. Selkirk.

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Class VIII.—3 Councillors.

73. Anstruther Wester,	77. Inverbervie,	81. Lochmaben,
74. Culross,	78. Kilrenny,	82. New Galloway,
75. Dornoch,	79. Kinghorn,	83. Queensferry.
76. Earlsferry,	80. Kintore,	

By the statutes before referred to the magistrates are chosen by the councillors out of their own body; and, in each of the preceding classes, we propose that their numbers should be as follow:

Class I.—Provost and four Bailies.
Classes II., III., IV.—Provost and three Bailies.
Classes V., VI.—Provost and two Bailies.
Class VII.—Two Bailies.
Class VIII.—One Bailie.

If these recommendations as to the number of councillors be adopted, it will be necessary, at the next ensuing period of election, so to proceed as to retain or bring into council the number of councillors which we have proposed. If the retiring of one-third in any burgh leave exactly the number of councillors suggested by us for such burgh, then in the first year there will be no election. If the requisite number of councillors do not remain, then only so many shall retire as will leave that number. If the retiring of one-third will leave more than the requisite number, then so many more councillors shall retire as will leave such number. If in any burgh the present number of councillors is less than the number proposed by us, so many councillors shall be elected as will complete the prescribed number. These arrangements are only necessary for the first election, as in all future years the election of councillors may be made in terms of the statutes.

Suggestions with relation to Constitution of Councils and Magistracies.

On the Constitution of Councils and Magistracies we further beg leave to offer the following suggestions:

1. It ought to be expressly provided, that, in the absence of the chief or senior magistrates, the bailies, and councillors, in the order of their seniority in council, should be entitled to act in their room.

2. In those towns that have been divided into wards for the purpose of election, and where a change is proposed to be made in the number of councillors, or where an extension of the burgal limits shall take place, there must of course be a new arrangement of the wards, and adjustment of the number of councillors to be elected in each.

3. We beg leave to recommend that no person being a party to any contract with any burgh shall be eligible as a councillor of such burgh during the subsistence of the contract, or while any claim arising out of it is unsettled.

4. As only one-third of the whole council goes annually out of office, and the remaining two-thirds may be presumed to be sufficiently acquainted with the affairs of the burgh, we are of opinion that it would tend to check the hazard of factious combinations, that no councillor so retiring should be again eligible till after the lapse of one year.

5. In the election of magistrates, the statute has given a casting vote to the councillor who, at his own election, had the greatest number of votes; but, as this may occasionally create embarrassment from several councillors having had equal numbers of votes, we are of opinion that it would be expedient to give the casting vote to the member of council, present at such election, who stands first on the list of councillors.

6. The present statutory rule for regulating the rotation of the council is, in one particular, attended with ambiguity. It is enacted that, after the year 1835, "the third of the councillors so annually going out of office shall always consist of the councillors who have been longest in office;" but the councillors being generally elected in classes, there will, in almost every case where an occasional vacancy shall occur by death or resignation, be a difficulty in fixing which individuals in the class are to be considered as having been longest in office. This difficulty might be obviated in various ways; but the most expedient mode, as it appears to us, and certainly that which, with the smallest change on the existing enactments, will make the statutory rotation intelligible and operative, is to make it imperative on town councils to keep a roll of the councillors, in the order in which they shall happen to present the evidence of their having been elected, and to declare that that councillor shall be held and considered to have been longest in office, in the sense of the statute, whose name stands first entered in the roll.

7. Town clerks are bound by the statute to call meetings for the purpose of filling up vacancies in the council occurring during the year. But it should further be ordained, that every town clerk shall issue notice of election within forty-eight hours after a vacancy comes to his knowledge, the council being prohibited from transacting business till the vacancy be filled up. CONSTITUTION OF MAGISTRACIES.

8. We are of opinion that in all burghs, whether divided into wards or not so divided, the election of councillors should be by open poll.

On the proper functions of magistrates and councils we have already offered such suggestions as have occurred to us; and it only now remains to take notice of the office of treasurer, who in all burghs is at present a member of council, and, in those burghs where there is no chamberlain, has the duty committed to him of managing the pecuniary affairs of the corporation. We are of opinion that, in all cases, this duty should be intrusted to an officer who is not a member of council; and that the duty of the treasurer should be confined to a superintendence of the proceedings of the chamberlain, or other officer to whom the duty of chamberlain is committed.

II. Burghs of Regality and Barony, and unincorporated Towns.

The constitutions and regulations which we have now suggested are applicable to all the royal and parliamentary burghs of Scotland. We have only now to state the result of our inquiries regarding the changes which may become necessary in the important class of burghs of regality and barony, and in those unincorporated towns which are of consideration from their increasing prosperity, or the amount of their population.

It has been mentioned that several of the burghs of regality and barony, especially those which were dependent on great ecclesiastical beneficiaries, are of very high antiquity, and possessed jurisdiction and privilege of trade only distinguishable from those of burghs royal, by being more circumscribed in their limits. Their Constitutions, though all flowing from the Crown, and recognising a subject superior, differed so essentially that in one class the right of electing magistrates was vested in the inhabitants, in another in the superior. History of their Constitutions.

By the Act annexing the temporalities of benefices to the Crown after the Reformation it was provided, that "Forasmeikle as there is divers burrowes in regalitie and barronnie, within this realme, quhilks were before halden immediatlie of the sadis prelates, and have bene in use to exerce the trade and trafficque of merchandice: to make burgesses, and to elect provostes, baillies, and uthers officiars, meete and necessar for the governement of their communities; our said Soveraine Lord and his saidis three estaties in Parliament, nawayes willing that they sall be hurt therein, declaris, decernis, and ordainis, that they sall remaine in the same freedoome and libertie, quhilk that they had before the said annexation, to be halden alwayes of our said Soveraine Lorde, in the same manner and condition be the quhilk they held there saidis liberties of the saidis ecclesiastical personis before, and na-waies hurt in their rightis and priviledges, and that the ane sort and the uther be not confounded be this present Act, bot remaine alwies distinct, as they were in time bypast: notwithstanding the said annexation. It is alwies provided, statute and ordained, that the provest, baillies, councel, and uthers officiars, within the said burrowes, in regalitie and barronie, quhair they were provest and baillies of before, sall be zierly elected, chosen, deposed and altered, according to the forme and tenour of the Actes of Parliament maid in the daies of our Soveraine Lordis maist noble predecessoures, and ratified in divers Parliaments sen his Hienesse corohation." 1587, c. 29.

The Crown having thus come in place of the ancient superiors, it naturally followed that several of these burghs of regality and barony were erected into royal burghs. Of these are Glasgow, Dunfermline, Queensferry, Culross, Fortrose, Dysart, (and probably St. Andrew's and Aberbrothwick;) while others, of no less consequence, remained without parliamentary representation, and in all respects in their former condition, until the Act for abolishing Heritable Jurisdictions, drawing a distinction between those in which the magistrates were appointed by the superior, and those having constitutions independent of the lord of regality or baron, almost abolished the jurisdiction of the former, while that of the latter class was reserved, but declared to be cumulative with the jurisdiction of the district. Different Classes. 20 Geo. II. c. 43, s. 27.

CONSTITUTION OF MAGISTRACIES. 1st Class.

1. Besides the broad distinction thus established by the Legislature, there exist numerous varieties in the constitutions of the burghs of regality and barony. Some of them have, either by their original constitution or by the later grant of their superiors, a modified right of election of their magistrates, vested in the burgesses or feuars, subject to the approbation of the superior. Of this kind are Stonehaven, Stornoway, Girvan; and Kilmarnock, now a parliamentary burgh, formerly belonged to this class.

2nd Class.

2. The class where the dependence upon the superior subsists unqualified, and where the magistrates are appointed by him, includes a number of large and important towns. Among these are Alloa, with a considerable trade, and a population of 6,000; Dalkeith, with an equal population, and a revenue of £667; Galashiels, a thriving manufacturing town, of 2,000 inhabitants; Kirriemuir, a place of extensive manufactures, and a population of 4,000; Kelso, a town of 4,700 inhabitants, and a revenue of £562; Fraserburgh, with a population of 2,000, and £1,115 of annual income; Strathaven, with 4,000 inhabitants; Langholm, Stewarton, Dunse, Kinross, with 3,000 each; Crieff, with a manufacturing population of above 4,000; Huntly, of above 2,500; Thurso, 2,700.

3rd Class.

3. A large class of towns, on the other hand, either consisting of burghs of barony independent of a superior at the date of the Jurisdiction Act, (such as Hawick, a considerable manufacturing town,) or since incorporated by royal charter, (as Laurencekirk and Lerwick,) or by Act of Parliament, (as Airdrie and Bathgate,) enjoy the elective constitution; differing, however, in the rate of franchise or qualification for electing, which is in some restricted to the resident burgesses, and in others exercised by the resident feuars or proprietors within burgh, and in Lerwick is conferred by a Crown charter on the owners and tenants of £10 tenements.

Towns which never had Constitutions.

In addition to these classes of burghs possessed of more or less perfect and independent constitutions, there is a number of Towns and large villages, in different parts of Scotland, altogether without Constitution or corporate existence, some of which are not of less consequence than those just mentioned, as well as many of the royal burghs. Thus Johnston, a place of thriving and extensive manufactories, has a population of 5,600; Beith, a population of 5,000; Lochwinnoch has 2,600 inhabitants; Barrhead, 2,600; and Keith, 2,500.

Constitutions ought to be remodelled or conferred.

We have refrained from giving detailed Reports upon any but the more important of these burghs and towns, but we have prepared tables which exhibit the amount of population, revenue, and peculiar constitution of each, so far as the information communicated by them, or in our power, supplied us with the necessary materials. In all of these towns, which have not already an elective municipal establishment, we have found an unanimous and strongly declared opinion that such a constitution would be highly beneficial to them. In a few instances a partial remedy for the want of an elective constitution has been afforded by local Acts of Parliament for regulating the police and revenues of the different towns; but these are for limited periods, and do not meet the demand for a free constitution and elective magistracy; and we can perceive no reason why such places should suffer an inconvenience, now felt the more irksome from the general enfranchisement of towns, in many instances of no higher consideration. We therefore recommend,

Relative Suggestions.

1. That in all burghs of barony, and in all unincorporated towns, where the population amounts, by the census of 1831, or by any subsequent enumeration, to 1,500, but is under 4,000 persons, the inhabitants, qualified in terms of the Act relative to towns and burghs not royal, should be empowered to elect annually six councillors, of whom two should be bailies.

2. That, where the population amounts to 4,000, but is under 6,000, they should elect nine councillors, of whom three should be bailies.

3. That, where the population exceeds 6,000, they should elect twelve councillors, of whom three should be bailies.

4. That the same powers, privileges, and jurisdiction, should be given to the said councils and magistrates, which we have suggested ought to belong to the magistrates of royal burghs, and that they should be liable to perform the same duties.

5. That the proper boundaries of the several burghs or towns should be fixed by the sheriff of the county; and to him should also be committed the power of making up the register of qualified electors.

The chief duty of the magistrates and councils of these burghs and towns should be to maintain an efficient police; and we are of opinion that a discretionary power should be vested in the sheriff of enforcing the performance of that duty. CONSTITUTION OF MAGISTRACIES.

Such are the general results of our inquiries on the various matters suggested in our Commission; which we now humbly submit to your Majesty's gracious consideration.

Given under our hands and seals at Edinburgh, the 5th day of August 1835.

JOHN B. GREENSHIELDS, (L. S.)
THO. THOMSON, (L. S.)
RO. BELL, (L. S.)
JOHN CUNINGHAME, (L. S.)
J. IVORY, (L. S.)
ROBERT HUNTER, (L. S.)
C. INNES, (L. S.)
R. HANDYSIDE, (L. S.)

101

MUNICIPAL CORPORATIONS.
(SCOTLAND.)

LOCAL REPORTS

OF THE

COMMISSIONERS.

PART I.

FROM ABERBROTHWICK TO FORTROSE,

INCLUSIVE.

Presented to both Houses of Parliament by Command of His Majesty.

LONDON:
PRINTED BY WILLIAM CLOWES AND SONS, STAMFORD STREET,
FOR HIS MAJESTY'S STATIONERY OFFICE.
1835.

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REPORT

ON

THE BURGH OF ABERBROTHWICK,

COMMONLY CALLED

ARBROATH.

(FORFARSHIRE.)

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ABERBROTHWICK OR ARBROATH.

(FORFARSHIRE.)

CHARTERS.

ARBROATH is supposed to have been erected into a royal burgh at a very early period; but the title-deeds of the town were taken by force from the Abbey, where they had been lodged for preservation, and destroyed by George, Bishop of Moray, as appears from the narrative of a charter of *novodamus*, granted to the town by James VI. in 1599, by which the town is of new erected into a free burgh, with a free harbour; and the common muir, and lands called Muirlands, are conveyed to the burgesses. These lands consisted of 91 acres of unimproved ground, which were feued out about 25 years ago for villas. In addition to the feu-duty stipulated to be paid annually, a price was taken for each feu, which diminished the amount of feu-duty. The amount of feu-duty now payable to the town from the muir is £104 0*s.* 10½*d.* At the time it was feued out, the land seems to have been nearly unproductive, and it was disposed of by public roup.

Productions, No. 1.

Evidence, p. 1.

Productions, No. 3.

POPULATION.

The Population of Arbroath, including the parishes of Arbroath and St. Vigeans, in which it stands, was, by census 1831, 13,795; in 1821 it was 11,400, showing an increase of 2,395 in the intermediate 10 years. In 1821, the number of houses within the burgh was 1739; in 1831, the number was 2,360, being an increase of 621.

The number of houses rented at £10 and upwards, according to a special Return made to the Burgh Boundary Commissioners, was 184. The present number of electors in the burgh is 203; and there are about 200 £10 householders residents between the burgh and parliamentary boundaries.

Productions, No. 3, p. 24.

The number of persons resident within the burgh whose rents do not amount to £10 is 745, of whom 145 are burgesses.

The number of persons whose rents amount to £5 and upwards is 136, of whom 50 are burgesses.

The number of persons whose rents do not amount to £10, resident beyond the proper bounds of the burgh, but within the parliamentary boundary, is 1,032, of whom 14 are burgesses.

Productions, No, 2, p. 13.

The number of such persons whose rents amount to £5 and upwards, but do not amount to £10, is 340, of whom three are burgesses.

PROPERTY.

The Property of the town now consists of common lands, houses, mills, harbour, patent slip for repairing vessels, sea-weed, debts due to the burgh, feu-duties, burgesses' entries, customs upon grain and linen, and impost upon porter and ale. The whole was valued by the late magistrates at £35,874 11*s.*; but there is reason to think that this valuation is much too high.

Productions, No. 2, p. 1.

REVENUE.

The Revenue of the burgh in 1788, according to a Return made to the House of Commons in 1789, was £864 1*s.* 7$\frac{5}{12}$*d.*

Appendix, No. 1, p. 7.

For the year ending at Michaelmas 1832 it was £2,922 0*s.* 11¼*d.*

Productions, No. 2, p. 2.

The average revenue for the last 20 years has been £2,663 15*s.* 1½*d.*

EXPENDITURE.

The Expenditure for the year 1832, including the expenditure upon the harbour, was £3,299 14*s.* 5*d.*, which exceeded the revenue of the year by £377 13*s.* 6*d.*

Productions, No. 2, p. 4.

The average annual expenditure for the last 20 years has been £2,940 18*s.* 0*d.*, which exceeds the average annual revenue by £277 2*s.* 11*d.*, annually.

Productions, No. 2, p. 4.

DEBT.

The Debt due by the burgh at Michaelmas 1832 was £17,967 15*s.* 10*d.*

Productions, No. 2, p. 4.

TAXATION.

The magistrates of Arbroath have power given to them, by the town's charter, to levy anchorage-money, customs, and shore-dues, and have been in the uninterrupted use of doing so, according to a table produced. Their charter empowers them to levy these dues in the "same manner as all other harbours and havens of ships of this kingdom are in any right, title, use or possession, and to apply the same in for the reparation, support, and defence of the said harbour, haven, and bulwark thereof, in all time coming."

HARBOUR.

There is an account produced of shore-dues received, and of the money expended on the harbour from the year 1758-9 to the year 1833, by which it appears that the revenue collected at the harbour has very much exceeded the expenditure upon it; and it is contended by many, that the whole revenue of the harbour is applicable to it alone, by the grant in the town's charter, and ought not to be applied to the common purposes of the town, but reserved entirely for the repair and improvement of the harbour.*

Appendix, No. 2.

Productions, No. 7.

* It is said, in a memorial presented by the magistrates and town council to the Commissioners, that a great part of the debt of the town was contracted for the harbour, but this does not appear upon the account.

ABERBROTHWICK.

The harbour is a bad one; there is a plan for constructing a new one, but it cannot be done but at a great expense, apparently not within the means of the burgh.

In the year 1788 the magistrates erected new piers, with gates, to prevent the swell of the sea coming into the harbour; and they have ever since levied, besides the shore dues, ½*d.* per ton upon resident freemen or burgesses, and 1*d.* per registered ton upon vessels belonging to non-resident freemen and strangers coming into the harbour.

The harbour-dues were rented higher in the years 1828-9 and 1830 than in 1831 or 1832; but still they may be said to be progressively increasing. By the printed abstract account for 1833, they rented higher then than in any former year.

roductions, No. 5.

roductions, No. 8.

The magistrates and council of Arbroath have presented a memorial to the Commissioners, suggesting the propriety of establishing a common rate of shore-dues for the harbours on the east coast of Scotland, not having special harbour Acts, as the old table of dues are not applicable to the present time, which seems to us to deserve attention.

ppendix, No. 2, to roductions, No. 2.

The magistrates of Arbroath levy petty customs upon goods brought within the royalty, and shamble dues. A copy of the table by which they are collected is produced. The right to levy them is founded upon immemorial usage.

They also levy a small tax annually from the proprietors of houses within the burgh, called Town Duty; it amounts, in all, to £13 13*s.* 0½*d.* yearly.

All the above taxes are applied to the general purposes of the burgh, and are levied over the whole royalty.

roductions, No. 2, p. 2 and 4.

The Government Cess, or Land Tax is levied by the magistrates. The sum levied in 1832 was £105 2*s.* 6*d.*; the sum paid to Exchequer was £81 18*s.*; the expense of collection is five per cent.; and after deducting arrears irrecoverable, the excess collected over the sum accounted for, is said to be very trifling,—and it cannot be great.

URISDICTION.

The Jurisdiction of the magistrates of Arbroath extends over the royalty of the burgh, the boundary of which is very intricate; one side of the High Street is within the boundary; the other, the east side, is beyond it.

roductions, No. 6.

Of the population of the town 6,660 are within the royalty; and 4,587 inhabit houses in streets, making part of the town, but without the royalty, over which there is no police.

roductions, No. 3.

The feuars without the royalty hold, partly of the magistrates of Arbroath, and others trustees of Mr. Colville's Mortification; and partly of private individuals. It seems to be the general opinion, that very great inconvenience is felt at present from there being no police in the town beyond the limits of the royalty, and that it will be highly expedient to place the whole community, within the parliamentary boundary, under one jurisdiction: provided that the holding of the lands and houses, now beyond the royalty, is not altered, and the proprietors and inhabitants there shall be protected against liability for the town's present debt; that the liability of the two parishes of Arbroath and St. Vigean's, for the maintenance of their poor and other parish burdens shall remain distinct as at present; and that the exclusive privileges of the trades and guildry shall not be extended over that part of the town now to be included in the burgh boundary.

There is an assessment for the maintenance of the poor in St. Vigean's, but none in Arbroath.

The magistrates of Arbroath possess the jurisdiction which is usual to magistrates of royal burghs. In practice, the baillies hold a court weekly, in which civil causes regarding debts and moveable property are tried to any extent; in criminal matters their jurisdiction is confined, in practice, to petty delinquencies; but the town's charter bestows upon them the power of "attaching, arresting, imprisoning, punishing, heading, hanging, drowning, and banishing all offenders, conform to the laws of our kingdom." It also gives them the power of repledging the inhabitants of the burgh accused of crimes from all other judges in the kingdom—the justice-general not excepted—upon finding caution of Colrath for administration of justice within term of law.

roductions, No. 9.

The number of civil cases tried in the Baillie Court since 1820 is 919. The number of criminal cases is 58.

In trying causes, the magistrates are assisted by the town clerk, or depute town clerk, who acts as their assessor.

vidence, p. 26.

It seems to be the opinion of intelligent individuals in Arbroath, that the jurisdiction of the magistrates in civil cases should be taken away except in warnings, removings, sequestrations, petitions by prisoners for aliment, and liberation upon sick bills; and that the power of judging, in actions of debt, and other questions relative to moveables, and in all possessory questions, now competent to the magistrates, should be transferred to a permanent judge duly qualified.

Arbroath is likely soon to require a resident judge. From the rapid increase of its population, trade, and manufactures, many cases of importance must arise; and if the royalty shall be extended to the parliamentary boundary, an additional population of 4,587 will be at once brought under the burgh jurisdiction, and the criminal and police business of the town will probably be much increased.

roductions, No. 4.

The dean of guild of Arbroath has a court, with a clerk and procurator fiscal, in which he entertains questions of nuisance, at the instance of the procurator fiscal, and of private parties with his concurrence. He compels the parties liable to uphold the foothpaths within the burgh, to repair them when necessary, and prevents encroachments on them or the streets.

ABERBROTHWICK.

He judges in all cases of disputed marches. He takes cognizance of ruinous buildings on complaints of the procurator fiscal, or of private parties with his concurrence.

Since last election of the town council under the Burgh Reform Act, the dean of guild has nominated three individuals, unconnected with the town council, to aid him with their advice, in cases coming before him: two of them are skilful tradesmen.

PATRONAGE.

The following civil offices are under the patronage of the magistrates.

Productions, No. 2.

The town clerk, superintendent of works, berth master at the harbour, beadle, gaoler, drummer, bellman, and keeper of the town's clocks.

The town clerk paid £1,000 for his office in 1812, which was paid into the town's funds, and applied to the general purposes of the burgh. He has a salary of £5 5*s.* per annum, and receives fees upon cases brought into the Bailie Court. He has a depute, who officiates in his absence. He is also factor for the community, and receives a commission of 2½ per cent. on the amount of the revenue.

There are no offices in the gift of the magistrates but those above stated.

The magistrates had formerly the appointment of the masters of the Burgh School; but that establishment has merged in one of a higher order, erected and maintained by subscription, and the magistrates, dean of guild, and convener of the trades, have now only a vote in the election of the masters along with the other directors of the establishment.

EXCLUSIVE PRIVILEGES.

The guildry of Arbroath enjoy the exclusive privilege of carrying on trade within the burgh. The entry-money payable by a stranger to the incorporation is £10, by the son or son-in law of a member £1 1*s.*, by the free apprentice of a member £5, by a King's freeman, if he chooses to enter, £4 4*s.*

The dean of guild and his council are in the practice of granting temporary licences to trade within burgh, and the terms upon which they do so, vary, according to the situation of applicants, from 21*s.* to 5*s.* The council reserve to themselves the right either to grant a licence, or to force the trader to enter with the corporation.

Allowances are made from the guildry funds to decayed members, widows, and children, at the discretion of the council.

There are a great many persons carrying on trade beyond the royalty, but within the parliamentary boundary, who are not members of the guildry.

Productions, No. 7.

The property belonging to the guildry is supposed to be worth about £976. It consists of houses, church-seats, moneys, &c.

There are seven incorporated trades in Arbroath, all of whom, except the weavers and glovers, enjoy the exclusive privilege of exercising their crafts within the burgh. The exclusive privileges of the weavers were taken away here, as over the rest of Scotland, by statute; and there is not a single operative glover in Arbroath. The entry-money to the incorporations maintaining their exclusive privileges, for a stranger, varies from £15 to £27, in the different corporations, and, for the son of a freeman, it varies from £4 to 13*s.* 4*d.*

24 Geo. II. c. 31, s. 23.

Appendix, No. 9, to Productions No. 2.

The entry to a stranger in the glovers' incorporation is £1 1*s.*, to the weavers' £1 15*s.* None of the incorporated trades possess funds of any considerable amount. Some of them have divided their funds.

Evidence, pp 6, 26, 30, 31, 15, 16, 17 19.

It seems to be a very general opinion in Arbroath that the exclusive privileges of the incorporations should be done away, as being of little value to themselves and hurtful to the community.

At a meeting of the incorporated trades, held a short time before the commissioners visited Arbroath, they resolved by the majority, that their exclusive privileges ought to be done away, and all the parties who appeared before the commissioners were of the same opinion; but the deacon of the tailors thinks his incorporation would rather preserve them; the deacon of the hammermen says his incorporation wish to see them abolished; the incorporation of shoemakers have divided their funds, from which each individual member received £19.

Evidence, pp. 34, 35.

Tradesmen, not entered with the corporations, complain much of their exclusive privileges; and cases of great hardship have been mentioned, arising from vexatious prosecutions of unfreemen.

Evidence, pp. 31, 32, 33, 36, 37.

Several persons carrying on business on the east side of the High Street complain much of being obliged to pay for a licence to trade to the guildry, when they are at the same time held to be beyond the royalty and not allowed to vote in the election of councillors. The guildry clerk justifies levying the tax, by two judgments of Lords Ordinary in the Court of Session, who found that persons residing on the east side of the High Street could not carry on trade without entering with the guildry or obtaining a licence, because, although they were not within the royalty, yet they could not leave their houses without stepping into it.

ELECTION OF MAGISTRATES AND COUNCIL.

By the old sett of the burgh the council consisted of at least 17, and not above 19, members. They were elected thus,—a convener elected by the deacons of trades was a councillor *ex officio*, and in the election of magistrates had two votes; the old council chose the new, consisting of 16 or 18, in all 19.

Report, Royal Burghs of Scotland, 1793, pp. 56, 57.

"Prior to the year 1715 the Earl of Panmure chose the first bailie out of a leet of two persons for provost, and four persons for bailies made by the new council. Then the incorporations, whose number is not mentioned, elected delegates, who with the council elected another bailie, and the provost out of the said leet."

Since 1715, no nomination of the first bailie has been made by the Earl of Panmure, both the bailies have been elected out of the council, by the council, the trades, and the fraternities of seamen, maltmen, and land labourers, each of whom had one vote in the election, and the dean of guild was a councillor *ex officio;* but it does not appear how he was elected.

ABERBROTHWICK.

Productions, No. 2.

In the year 1821, an alteration was made on the sett, by the convention of burghs. The import of this alteration was, that the first four vacancies which should occur in the council of Aberbrothwick by death, resignation, or otherwise should be appropriated for the admission of a like number of members from the guildry and incorporated trades, to be elected annually, in the following manner, viz. that each of these bodies, at the election of their office-bearers, should nominate four of their members as candidates; and at the commencement of the business on the day of election of magistrates and councillors, should give in to the town council a list of the persons so nominated, at which time, and from each of the lists so presented, the town council should elect two persons to the office of councillors, who, when elected, should become constituent members of the council for the ensuing year, and should have power, along with the other members of council, to fill up any vacancies in the council, that might have occurred in the course of the preceding year. That in case the whole four vacancies in council did not occur at one time, the first should be filled up from the guildry, in the manner above expressed; the second from the trades, and so on alternately, till the whole were admitted. That similar lists of two names for every one of the members to be elected from the guildry and incorporated trades as aforesaid, shall at every subsequent annual election be given in to the town council by these bodies, and if the members elected from the previous lists for the preceding year should be again made choice of, they will remain themselves of council for another year; but if any other persons should be elected from these lists, then the members formerly admitted, must retire from the council accordingly, as soon as the new members are elected. It being declared that in case the guildry and trades refuse or neglect to nominate the number of members required at the time appointed, then it should be in the power of the council to elect such members as they chose, conform to the sett and former practice of the burgh.

The magistrates and council of Arbroath are now elected according to the provisions of the 3, 4 Will. IV. The council consists of 17 members.

Evidence, pp. 30, 31.

Several individuals examined think the £10 qualification for voting in the election of magistrates too high, while others think it a fair qualification.

Evidence, p. 32.
Evidence, p. 28.

Archibald Monro says, that there has been a good deal of murmuring in the town about the amount of the qualification, but he has not formed an opinion on the subject himself.

Evidence, p. 7.
Evidence, p. 20.

Mr. Thorn thinks £5 a sufficiently high qualification for Arbroath, but the exclusive privileges of the corporation are the greatest grievance of which he has to complain.

Evidence, p. 34.
Evidence, p. 15.

Mr. Forbes, the late deacon convener of the trades, says he thinks the qualification of voting for magistrates would have given general satisfaction, if the boundary of the royalty had been extended to the parliamentary boundary; but the present contracted boundary of the royalty excludes a very great proportion of the town.

Evidence, p. 24.
Productions, No. 3.

The extension of the burgh to the parliamentary boundary will add about 200 voters to the municipal constituency.

POLICE.

There is no separate establishment for maintaining the Police of Arbroath, and the town's establishment and funds are quite inadequate for that purpose.

The gaol in Arbroath has been lately erected, and is well-constructed, except that there is a want of means for airing and warming the felons' cells on the ground floor, and there are no airing yards, and no proper provisions of water within the gaol.

DOCUMENTS.

The following Documents accompany this Report:

1. Copy Charter of Novodamus by King James VI. to the community of Aberbrothock 1599.
2. Answers to Heads of Inquiry issued by the Commissioners.
3. Evidence taken at Arbroath 23d and 24th October 1833.
4. Answers by Dean of Guild as to his Jurisdiction.
5. Abstract of Accounts of Arbroath at 15th October 1833.
6. Statement of Population of Arbroath 23d October 1833.
7. State of Guildry Funds, Michaelmas 1832.
8. Memorial by the Magistrates relative to the Harbour.
9. Account of Civil and Criminal Cases tried in the Bailie Court from 1820 to 1833 inclusive.

JAMES CAMPBELL.

APPENDIX TO REPORT

ON

THE BURGH OF ARBROATH OR ABERBROTHWICK.

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I.—ACCOUNT of the REVENUE and EXPENDITURE of the TOWN of ARBROATH for the Year 1831—2:

REVENUE.

	£.	s.	d.	£.	s.	d.
1. Rents.—Wardmill for a year, preceding Michaelmas 1832	327	16	11			
Washing mill, for ditto	137	0	0			
Common grass, &c., for ditto	47	16	6			
White Hart Inn, for ditto	242	0	0			
Weighhouse, for ditto	13	9	0			
Convent churchyard, for ditto	14	2	0			
Ramsay's house, for ditto	6	0	0			
Shambles' mail	12	17	0			
				801	1	5
2. Feus.—Hill-street properties, received annually from same	44	3	7			
Town's muir	104	0	10½			
Sundry properties	126	12	3			
Town's duty roll	13	13	0¼			
				288	9	8¾
3. Customs and market dues received for a year, preceding Michaelmas 1832				38	5	0
4. Harbour.—Shore dues for a year's rent, including gate dues	1,429	17	11			
Patent slip for ditto	80	0	0			
Sea warehouse for ditto	13	8	0			
				1,523	5	11
5. Wine impost.—None.						
6. Twopennies on ale received for the year preceding Michaelmas last				68	3	9½
7. Streets.—For sweeping of same				165	0	1
8. Town's cess.—For a year's cess taxed on inhabitants for 1832				105	2	6
9. Sundries.—Burgesses' compositions, £21; interest, £16 15s.				37	15	0
				£3,027	3	5¼
Deduct received for cess, which should not be included in town's revenue				105	2	6
				£2,922	0	11¼

ABERBROTHWICK.

Account of the Revenue and Expenditure of the Town of Arbroath, continued:

EXPENDITURE.

	£.	s.	d.	£.	s.	d.
1. Salaries.—Town officers', for one year preceding Michaelmas 1832	69	10	0			
George Ritchie and bellman's salary	20	10	0			
Harbour master	30	0	0			
Town clerk's	5	5	0			
				125	5	0
2. Interest.—For a year's interest preceding Michaelmas 1832	.	.	.	652	5	6
3. Annuities for a year	.	.	.	138	0	0
4. Stipends and school salaries, &c., for a year	.	.	.	191	0	0
5. Feu duties for a year	.	.	.	1	17	3
6. Repairs of property, harbour and patent slip.—Expended on same for the year ending 1832	215	10	7			
Note.—The annual average sum laid out on harbour, for the last twenty years, is £515 10*s.* 4*d.*						
Ward mill.—For a year's expense on same	32	1	3			
Washing mill.—For same to Michaelmas 1832	43	0	8½			
Town house.—For a year's expense to, and gaol	39	6	10½			
White Hart Inn.—For ditto	27	4	10½			
Convent church-yard.—For ditto	1	17	6			
Church repairs, £1 11*s.*; and steeple, £727 17*s.* 10*d.*	729	8	10			
				1,008	10	7½
7. Cleaning streets, repairs, &c., for a year preceding Michaelmas 1832	.	.	.	379	16	4½
8. Lamps.—For gas and lamplighters, for a year	.	.	.	183	6	0
9. Cess.—For amount remitted to receiver general, for 1832	81	18	0			
Æquæ dues, &c., ditto	7	4	4			
				89	2	4
10. Incidental account for a year preceding Michaelmas 1832	.	.	.	539	13	8
				£3,388	16	9
Deduct paid for cess, which should not be included in town's expenditure	.	.	.	89	2	4
				£3,299	14	5

II.—RECEIPT and EXPENDITURE of the HARBOUR of ARBROATH, from the earliest period that can be traced: and a STATEMENT of the DEBT due by the Burgh at different periods.

Year.	Gate Dues.			Receipt for Shore Dues.			Expenditure.			Debt due by the Town.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
From 1758 to 1759	.	.	.	92	10	0	.	.	.			
1760	.	.	.	95	15	0	.	.	.			
1761	.	.	.	114	0	0	.	.	.			
1762	.	.	.	133	5	0	.	.	.			
1763	.	.	.	141	0	0	106	19	6			
1764	.	.	.	160	0	0	.	.	.			
1765	.	.	.	165	0	0	.	.	.			
1766	.	.	.	200	0	0	6	2	8	14,821	12	1⅓
1767	.	.	.	246	0	0	8	0	2			
1768	.	.	.	245	0	0	16	1	11⅓			
1769	.	.	.	268	6	10	27	12	7½			
1770	.	.	.	252	14	0	25	6	1½			
1771	.	.	.	240	5	0	17	16	3⅓			
1772	.	.	.	260	9	8	15	9	6			
1773	.	.	.	245	0	0	5	8	11⅓			
1774	.	.	.	230	0	0	36	6	5			
1775	.	.	.	271	2	8	35	11	4½			
1776	.	.	.	285	14	7	47	16	2⅓			
1777	.	.	.	290	0	0	24	0	6			
1778	.	.	.	269	8	2⅓	25	18	9½			
1779	.	.	.	256	0	0	4	13	11			
1780	.	.	.	251	0	0	5	16	8			
1781	.	.	.	257	0	0	5	5	10			
1782	.	.	.	247	0	0	.	.	.			
1783	.	.	.	250	0	0	61	11	10			
1784	.	.	.	250	5	0	18	15	3			
1785	.	.	.	255	0	0	16	16	9½			
1786	.	.	.	288	0	0	5	18	0	9,983	16	1⅓
1787	.	.	.	300	0	0	15	5	7	9,581	11	8
1788	.	.	.	300	0	0	48	11	6⅓	10,043	2	1
1789	.	.	.	300	5	0	686	8	11	10,368	13	3⅓

Receipt and Expenditure of the Harbour of Arbroath, continued:

Year.	Gate Dues.			Receipt for Shore Dues.			Expenditure.			Debt due by the Town.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
From 1789 to 1790	33	16	0	310	5	0	200	0	2	10,419	17	$2\frac{2}{12}$
1791	34	8	3	315	10	0	111	9	9	10,080	1	$0\frac{2}{12}$
1792	34	11	0	270	0	0	71	3	$8\frac{1}{4}$	9,878	3	$7\frac{1}{2}$
1793	33	16	0	293	0	0	213	16	$4\frac{1}{2}$	9,955	19	$2\frac{1}{2}$
1794	40	13	10	270	0	0	171	0	1	9,961	8	$2\frac{2}{3}$
1795	40	14	$8\frac{1}{2}$	370	5	0	191	10	$2\frac{1}{2}$	9,805	7	$9\frac{1}{12}$
1796	42	14	11	376	10	0	575	6	$5\frac{1}{4}$	10,045	7	$3\frac{1}{2}$
1797	46	5	5	451	0	0	107	13	$3\frac{1}{2}$	10,109	8	$7\frac{1}{2}$
1798	55	18	0	420	10	0	78	5	$6\frac{1}{2}$	10,179	3	6
1799	32	8	7	420	0	0	66	17	8	10,153	4	$10\frac{1}{12}$
1800	39	3	10	442	0	0	266	19	$9\frac{1}{2}$	10,158	15	$10\frac{9}{12}$
1801	35	5	1	460	0	0	194	16	$8\frac{1}{2}$	10,095	15	$9\frac{1}{12}$
1802	32	5	11	350	0	0	194	14	$4\frac{1}{2}$	10,294	6	$1\frac{1}{2}$
1803	60	10	$7\frac{1}{2}$	370	0	0	89	3	2	10,088	8	$5\frac{5}{12}$
1804	33	12	8	431	0	0	521	17	$5\frac{1}{4}$	10,220	0	$10\frac{9}{12}$
1805	35	11	10	460	0	0	386	18	$2\frac{1}{2}$	10,396	0	$8\frac{1}{12}$
1806	39	19	$7\frac{1}{2}$	640	0	0	466	1	$11\frac{1}{2}$	10,209	6	$8\frac{1}{2}$
1807	31	14	3	601	0	0	72	14	$4\frac{1}{2}$	10,631	1	$5\frac{9}{12}$
1808	53	0	6	735	0	0	127	11	$8\frac{1}{2}$	10,319	1	$10\frac{1}{2}$
1809	57	19	10	622	0	0	463	16	$7\frac{3}{4}$	11,440	5	$11\frac{1}{12}$
1810	63	12	$7\frac{1}{2}$	702	0	0	334	18	$6\frac{1}{2}$	11,101	17	$9\frac{1}{2}$
1811	74	0	$3\frac{1}{2}$	745	0	0	432	8	0	10,373	12	$2\frac{1}{2}$
1812	52	6	8	691	0	0	510	18	$5\frac{1}{2}$	11,386	16	$6\frac{1}{12}$
1813	51	5	5	731	0	0	422	3	1	11,512	6	0
1814	49	8	$6\frac{1}{2}$	701	0	0	1,091	13	$8\frac{1}{3}$	10,268	17	4
1815	53	1	8	690	0	0	417	17	$10\frac{1}{2}$	10,869	1	6
1816	52	17	0	750	0	0	417	18	0	12,360	8	1
1817	48	13	1	649	0	0	234	13	$8\frac{1}{3}$	12,603	8	1
1818	54	11	1	681	0	0	598	7	10	12,646	8	1
1819	61	3	5	692	0	0	320	19	$5\frac{1}{2}$	11,922	9	10
1820	58	17	3	772	0	0	258	8	$11\frac{1}{3}$	11,518	9	$9\frac{1}{2}$
1821	59	6	9	710	0	0	290	2	$5\frac{1}{2}$	12,766	12	$0\frac{1}{4}$
1822	71	5	9	1,056	5	0	726	1	1	14,252	19	6
1823	111	5	11	615	15	0	663	0	$2\frac{1}{2}$	15,173	19	5
1824	83	18	$1\frac{1}{2}$	1,021	0	0	327	7	1	16,083	13	10
1825	107	0	$3\frac{1}{2}$	1,316	0	0	198	2	$5\frac{1}{2}$	14,554	8	$9\frac{1}{2}$
1826	71	19	2	1,100	0	0	1,154	17	$6\frac{1}{2}$	14,795	3	0
1827	78	13	2	1,050	0	0	635	13	$1\frac{1}{2}$	15,509	1	7
1828	88	1	0	1,430	0	0	449	19	3	16,402	15	5
1829	91	17	1	1,425	0	0	755	13	$5\frac{1}{2}$	16,531	8	4
1830	38	9	$3\frac{1}{2}$	1,431	0	0	684	9	4	16,821	15	7
1831	102	3	7	1,300	0	0	363	7	0	17,670	17	$7\frac{1}{12}$
1832	102	9	11	1,301	0	0	299	11	4	17,967	15	10
1833	106	8	0	1,312	0	0	523	19	1	17,406	18	$6\frac{1}{2}$

ARBROATH, OCT. 23d 1833.—This is the receipt, &c., referred to in my declaration of this date.

(Signed) WILLIAM ANDSON.

REPORT

ON

THE CITY OF ABERDEEN.

(ABERDEENSHIRE.)

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ABERDEEN.

(ABERDEENSHIRE.)

History, Charters. Appendix, No. 6.

ABERDEEN seems to have attained importance as a burgh at a very early period. The first charter preserved amongst its records, is one by William the Lion, granting to his burgesses of Aberdeen, all the burgesses of Moray, and all his burgesses dwelling north of the Mount, the right of carrying on trade freely at their pleasure. By a second charter, dated some years afterwards, the same monarch granted to the burgesses of Aberdeen exemption from tolls and customs for their goods all over Scotland, on account of the good services they had rendered to him.

Appendix, No. 7.

Alexander II. granted to the burgesses of Aberdeen the same privileges which had been bestowed by his predecessors on the burgh and burgesses of Perth, and conferred on them the right of holding markets, and establishing a merchant guild.

Alexander III. granted them two charters of the same nature.

King Robert Bruce, by a charter dated at Dundee, the 24th day of October, in the eighth year of his reign, granted to the burgesses of Aberdeen the keeping of his forest of Stocket, adjoining the town, reserving to himself the timber and right of hunting.

By a charter, dated at Berwick-upon-Tweed, the 10th of December, in the fourteenth year of his reign, the same monarch granted to them the property of the Stocket, with the fishings adjoining in the rivers Dee and Don.

The city, in 1459, purchased the lands of Cruives, lying near the town on the banks of the river Don.

Evidence before Committee of the House of Commons on Scotch Burghs, 1819, pp. 287, 340.

The description in the charters gives no idea of the extent of the properties which at this time belonged to the city; but, according to the evidence of the town clerk, and keeper of the records of Aberdeen, when examined before a Committee of the House of Commons appointed to inquire into the condition of Scotch Burghs in 1819, they included, amongst other lands, Rubislaw, Countesswells, Haselhead, Forrester Hill, and Northfield Cruieffs, and "are very extensive, amounting to about fourteen miles in circumference."

Kennedy's Annals, vol. i. p. 144.

These lands, with the salmon fishings of the rivers Dee and Don, prior to the year 1551, had generally been let, from time to time, by the magistrates and town council, with the approbation of the community, on short leases, to burgesses of guild only, at a small yearly rent. They were let, it is believed, for not longer than five years, and a grassum or fine was paid by the tenants on renewal of their leases. By this means a sufficient revenue was raised for meeting the expenses of the community; but, in 1551, a scheme was formed for dividing the property of the town amongst certain favoured burgesses. For this purpose the citizens were induced by those who had obtained the administration of the town, to concur in an application to the Crown for a new charter to enable the magistrates and community to grant feũs of their lands and fishings.

Reg. Mag. Sigilli, lib. 30, No. 737.

In consequence of this application, Queen Mary, by charter, dated at Edinburgh, in the month of February 1551, in the tenth year of her reign, granted to the provost, bailies, council of Aberdeen, and the community of the same, the power of feũing out their lands and fishings. This charter, after narrating the previous grants of the lands, proceeds: "Quas etiam terrarum predia et aquarum piscarias antedict. prespositi ballivi et communitas dict. nostri burgi non hiis solum temporibus verum ultra hominum memoriam particulatim divisas ad inexplicabile commodum dicti nostri burgi concivibus ejusdem locarunt non minus tamen nostri regni coadiacentes proceres ea inde proficua dicti nostri burgi incolis perspicientes euenire. Spe eorund. acquirendi sese dicto nostro burgo intrudunt inuoluunt commiscent et rempublicam ejusd. ita disturbant ut nulla requies nulla denique pacifica civium vita suis incolis istis reliquitur. Quare ad has turbas euadendas expellandasque et ad tollendum omnem earum occasionem seu causam precipuam vt ne omnino in futurum quedam sit que procerum animos huic nostro burgo allicere quoquomodo possit ac vt respublica ejusdem et suũs annuus census pro Strenuiore tuitione suorum civium augeatur cum specialibus consensu et assensu antedicti nostri gubernatoris dominorum secreti consilii nostri Dedimus, concessimus, et commissimus ac pro nobis et nostris successoribus damus concedimus et committimus nostram plenariam potestatem liberam facultatem et licenciam specialem preposito balliũis consulibus et communitati dicti nostri burgi de Abirdene presentibus et futuris ac eorund. maiori parti antedictas aquarum piscarias et terrarum predia quas infra libertatem dicti nostri burgi de nobis et predecessoribus nostris in feudifirma tenent habent et possident concivibus et liberis burgensibus eiusdem nostri burgi potissimùm hiis quibus de presenti pro firma assedantur et suis heredibus masculis liberis similiter burgensibus etiam dicti nostri

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burgi actu incolis et in eo fruentibus libertate privilegiorum et mercium mutationem frequentantibus et nullis aliis assedandi, arrendandi, locandi ac in emphiteosim seu feudifirmam, nunc et omnibus temporibus futuris, quotiens vacare contigerit, imperpetuum hereditarie dimittendi pro annua augmentatione firmarum earund. antedict. preposito balliŭis et consulibus soluenda ac in usum reipublicæ dicti nostri burgi et pro defensione eiusdem applicanda hiis tamen feudifirmariis nullo pacto exemptis a curiis et placitis dicti nostri burgi nec a solutione subsidiorum et contributionum (qui taxtis et stentis appellantur) neque a debitis obedientiis dicto nostro burgo suis officiariis gubernatoribus et officia publica gerentibus prius solitis et consuetis: Proviso etiam, quod nulle femine concedetur facultas fruendi seu possidendi antedictis feudis seu vlla ipsarum parte nec in vitali redditu hereditate conjuncta infeodatione, nec aliter quouismodo, et ad premissa facienda dedimus et concessimus ac tenore presentium, pro nobis et successoribus nostris, damus et concedimus antedictis preposito ballivis et communitati dicti nostri burgi et eorum successoribus plenariam potestatem commissarios pro prefatorum fundorum assedatione locatione et dimissione eligendi. Quibus committetur hereditaria infeofamenta feudifirme piscariarum et prediorum antedict. dandi, concedendi, et conficiendi, cum talibus restrictis et annexis clausulis et conditionibus vt ex eorum animi sententia magis videbitur reipublicæ expedire. Precipue, ne licitum erit cuique illorum neve suis heredibus quibus contigerit antedict. feuda concedi capsa aut ullas earum minimas partitulas quibuscunque personis vel persone disponere seu alienare preterq. dicti nostri burgi masculis burgeñ. et eiusdem mercatoribus et actualibus incolis superius recitalis et si secus fecerint ea eorum feuda dicto nostro burgo et eiusdem dispositioni plenarie reuerter et in manibus prepositi ballivorum, consulum, et communitatis eiusdem pro tempore vacare absque presentium facultatis et licencie privilegiorum ve ejusd. prejudicio aut gravamine vel quaqua lesione ceteris feudifirmariis supradictis quoquomodo inde sequenda aut inferenda: Saluis omnimodo et reseruatis nobis et successoribus nostris feudifirmis predictarum aquarum et piscariarum de eisdem nobis et predecessoribus nostris ante presentem concessionem prius debitis cum computo earund. in scaccariis nostris annua . . . . . enda more solito et consueto. In cuius rei testimonium presentibus magnum sigillum nostrum apponi precepimus. Apud Edinburgh . . . die mensis Februarij, Anno Domini millesimo quingentesimo quinquagesimo primo, et regni nostri decimo."

Mr. W. Carnegie, Town Clerk of Aberdeen. Evidence, House of Commons Committee on Royal Burghs, 1819.

As soon as this charter passed the seals, the whole of the fishings, and the greater part of the lands were feued out to guild burgesses, under condition that the vassals should always be "burgesses, actual indwellers of the town, frequenting and using the exercise of merchandise," and that females should be excluded from the succession. This restriction continued till of late years, when it was taken off by an act of the town council; and any person may now hold these feus.

The feu duties and compositions to be paid for the lands and salmon fishings were fixed by a Head Court of the citizens of Aberdeen 4th March 1551, and were as follows, in Scots money:

Salmon Fishings.

	Annual Feu Duty.			Composition.		
	£.	s.	d.	£.	s.	d.
The fishings on Dee, Raik, 5½ nets	89	14	10	484	0	0
„ Mid Chingle, 5 nets	81	10	0	266	13	4
„ „ ⅓ part	.	.	.	53	6	9
„ Pot „ 6 nets	49	0	0	268	0	0
„ Fords „ 7½ nets	25	2	6	165	0	0
„ Don, 2 nets	.	.	.	172	0	0
„ „ ⅔ part, 43 merks each	58	16	0	86	0	0
„ Cruives ⅜ part, 44 merks each	12	10	0	176	0	0
„ „ ⅜ part, 22 merks each	12	10	0	176	0	0

Lands.

The garden	40	0	0	27	0	0
The lands of Skedocksley	53	6	8	26	13	4
„ the Tulloch	4	0	0	18	0	0
„ the King's Wells	26	13	4	17	0	0
„ the Forester Hill	20	0	0	12	13	4
„ the Cruives	40	0	0	20	13	4
„ the King's Hill	1	6	8	6	13	4
„ Bogfairly	44	13	4	22	0	0
„ Rubislaw	20	0	0	26	0	0
„ Hessilhead	13	6	8	18	0	0

Council Register, vol. 21, pp. 109, 141.

Evidence Committee House of Commons, Scotch Burghs, 1819, p. 287.

The feu duties of the whole of the fishings amounts, in sterling money, to £27 7*s.* 8*d.*, and it was stated in the House of Commons' Committee, in 1819, that they were then worth nearer £10,000 than £3,000 per annum.

King Charles the First granted a charter of confirmation of all their rights and privileges, and of all their former charters, "dilectis et fidelibus nostris servitoribus præposito, ballivis,

consulibus, burgensibus et communitati dicti burgi nostri de Aberdene, suisque successoribus," dated the 9th September 1638, which was confirmed by Parliament November 17, 1641, and which may now be considered as the charter regulating the rights and privileges of the city.

In the year 1656, Mr. Tucker was sent into Scotland by the Government of England, to introduce order into the collection of the customs and excise there. After finishing his inquiries, he reported to the Commissioners for Appeals in England the state of those burghs which seem then exclusively to have carried on any trade in Scotland.

This Report is dated London, 20th November 1656, and, having given an account of Montrose, Mr. Tucker says, "the port of Aberdeen lies next northward, being a very handsome burgh, situated at the mouth of the river Downe, and is commonly called the New Towne, for distinguishing it from another towne hard by of the same name, but more antiquity, lying at the mouth of the river Dee, some a mile distant from the New Towne, and is the chief academie of Scotland." Report by Thomas Tucker, p. 33.

At the date of Mr. Tucker's Report, there were nine vessels belonging to the port of Aberdeen, and the joint burden of the whole was 440 tons. The whole duties of the excise and customs collected at the port from 1st October 1655, to 1st October 1656, was £82 9*s.* 5*d.* Report by Thomas Tucker, pp. 55, 59, and 63.

Aberdeen is now a very flourishing city, carrying on trade to a great extent. The population of the burgh, and parishes connected with it, by the census of 1831, was 58,019. The number of houses in New Aberdeen was 2,588; and, by a special return made to the Burgh Boundary Commissioners in the same year, the number of houses of £10 and upwards yearly value, including Old Aberdeen, was 1,289. The number of parliamentary voters registered is 2,166. POPULATION.

One of the city chamberlains has furnished a return showing the property and debts of the city at Michaelmas 1832, and its revenue and expenditure during the year preceding, so far as contained under what is called the Treasury Account. Property and Debt. Appendix, No. 1.

From this return it appears that the property of the city is valued in the town's books at £223,979 19*s.* 4*d.*

That the debt due upon the Treasury Account is £182,946 13*s.* 4*d.*

That the ordinary revenue of the year ending at Michaelmas 1832, was £11,140 4*s.* 7*d.*; and

That the ordinary expenditure of the same year was £9,020 8*s.* REVENUE and EXPENDITURE.

So that, by the chamberlain's return, including the treasury, ordinary revenue, and expenditure, it appears that the ordinary revenue of the city for the year 1831-2, exceeded the expenditure by £2,119 16*s.* 7*d.*

But the Treasury Account affords very incomplete information as to the true amount of the city's revenue, expenditure, and debts.

The accounts of the revenue, expenditure, and debts of the city of Aberdeen, are kept under six different heads; which is the subject of very general complaint amongst the inhabitants, as it tends, it is thought, to conceal the true situation of the town's affairs, and makes it, as the Commissioners have found, very difficult to understand them. Evidence, pp. 72, 78.

The treasury account ought to include the whole funds received and expended on account of the city; but it contains a part of them only, and to ascertain the full amount of the city's revenue, expenditure, and debts, it is necessary to look at five other accounts, which contain sums received and expended by the corporation of the city, and debts for which it appears it must be liable, equally as for those of the treasury account. See Abstract Accounts 1831-2. Appendix, No. 2.

These accounts are the following:

1st. Of the Guild Wine Fund. Prior to the year 1582, burgesses at their entry provided a banquet for the guildry. In that year, a payment in money was substituted for the banque by act of council; and ever since, a certain sum has been paid by each guild burgess at his entry, to a fund called the Guild Wine Fund. From the accumulation of these payments, lands have been purchased, from which the fund derives an income of about £430 per annum; it also derives about £100 per annum from rent of the cross (market-place) and stalls in the poultry market, besides what it receives annually from the proportion of the entry-money of burgesses, still allocated to it, being at present £2 2*s.* from each intrant.

This fund is now claimed by the guildry. It has, from a very distant date, if not ever since its institution, been under the management of the magistrates and town council. The same act of council which commuted the banquet into a payment in money, enacted that the compositions received should be applied to the common weal of the burgh, and repairing the common decayed works thereof, and that the dean of guild should be bound to account for it. 25 January 1582.

The act of council 1582 does not appear to have been strictly attended to. The guild wine fund seems to have been applied for many years to entertaining strangers and other city guests. But since the affairs of the city became embarrassed, it has been used as part of the common good, and applied to the payment of the city officers, and other city purposes.

The circumstance that this fund was under the charge of the dean of guild, does not establish that it belonged exclusively to the guildry, for previous to the passing of the Burgh Reform Act, the dean of guild was appointed by the magistrates and council; the guildry as a separate body had no vote in his election.

2d. Of the Dean of Guild Casualties; which fund is composed of another proportion of the entry-dues of burgesses which belongs to the common good of the city, and has always been appropriated to the common purposes of the town.

3d. Of the Arms Money Fund; which arises from a certain proportion of the entry money of burgesses coming in place of a piece of armour, furnished by each burgess in ancient

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times, at his admission, to the city armoury, and formerly appropriated to repairing the town's arms; but now applied to the common purposes of the town.

4th. Of the Commissioners of Infeftments Fund. This fund arose from payments in money, substituted for banquets, given by the town vassals, at signing their charters, by the Commissioners of Infeftments, who are ten of the magistrates and council appointed for that purpose. These payments have latterly been discontinued; the only revenue belonging to the fund now, is the rent of a shop, amounting at present to £26, applied in paying interest of money borrowed from the bridges of Dee and Don, it is understood, for the use of the town.

5th. Of the Kirk Work. This is an account kept as if the ecclesiastical establishment of Aberdeen were maintained out of a fund separate from the common good; but the only entries in it of funds specially destined to the maintenance of the church, are the interest of the price of St. Nicholas Metts, and the rent of a house, amounting together to £13. The other entries in the account are seat rents, dues of burials, mortcloths, gravestones, and lairs in the churchyard; all which form part of the revenue of the town. The entries in all these accounts, or at least the results of them, ought to appear in the account of the city's common revenue and expenditure.

One of the city chamberlains has furnished the commissioners with abstracts of these accounts for the year preceding Michaelmas 1832, including the treasury account, and also with abstracts of the same for the five previous years. These abstracts contain the whole accounts from which the amount of the revenue, expenditure, and debts of the city may be found.

From them it appears that the revenue of the city for the year 1832, was,

Appendix, No. 2.

	£.	s.	d.
Upon the Treasury account, ordinary - -	11,140	4	7
„ „ casual - -	1,279	8	10
Upon the Guild Wine Fund account - -	589	7	0
Upon the Dean of Guild's casualties' account -	499	18	5
Upon the Arms Money account - - -	37	10	0
Upon the Commissioners of Infeftments' account	26	0	0
Upon the Kirk Work account - - -	1,415	0	6
Making the total revenue of the year, ordinary and casual	£14,987	9	4

And that the expenditure during the same year, was,

	£.	s.	d.
Upon the Treasury account, ordinary - - -	9,020	8	0
„ „ casual - - -	2,156	0	0
And upon the other accounts, including £1,097 13*s.* 11*d.* casual expenditure on the Kirk Works - -	4,092	5	8
Making the total expenditure, ordinary and casual -	£15,268	13	8

The total expenditure of the year, ordinary and casual, therefore, exceeded the total revenue, ordinary and casual, by £281 4*s.* 4*d.*

The receipts and expenditure of a single year may be thought an imperfect test of the state of the city finances.

	£.	s.	d.
It appears from the printed abstract accounts, already mentioned, if we understand them rightly, that the total average annual revenue of the city for the five years preceding Michaelmas 1832, ordinary and casual, was - - - - - - - - - -	15,184	3	2½
And the total average annual expenditure, ordinary and casual, was -	17,528	4	7
Hence the annual expenditure of the city, upon the average of these five years, exceeded its income by - - - - - - -	2,344	1	4½

This excess arose entirely upon the casual expenditure; for the average ordinary income of the city during the period, exceeded the average ordinary expenditure by £735 19*s.* 1½*d.*; while the average casual expenditure exceeded the average casual revenue by about £3,080, and appears to have been chiefly occasioned by building churches.

DEBT.

Appendix, No. 1.

	£.	s.	d
The debt upon the Treasury account, as already stated, amounted at Michaelmas 1832, to - - -	182,946	13	4
The debt upon the Kirk Work, at the same date, amounted to - - - - - - -	16,300	0	0
Upon the Guild Wine Fund, to - - -	800	0	0
Upon the Commissioners of Infeftments Fund to	750	0	0
	£200,796	13	4
From this is to be deducted debts stated as due by the treasury to the Guild Wine Fund, £700; and to the Arms Money Fund, £500, as the treasury cannot be said to be indebted to those funds if they form, as we think, part of the common good	1,200	0	0
Leaving as the total amount of the city's debt at Michaelmas 1832 - - - - -	£199,596	13	4

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Against the excess of debt above that stated in the treasury account, is to be put the value of the funds above enumerated, which are not included in the estimated value of the city property; but we have not the means of putting a correct value upon them.

It appears from the Report of the Committee of the House of Commons on Scotch burghs in 1819, that the debt of the city of Aberdeen was then - £230,000 0 0 p. 25.

But this does not include the debt then due by the city on the Kirk Work - - - - - - - - - -	1,600	0	0
Which, being added, makes the whole debt of the city in 1819	231,600	0	0
Deducting from this sum the amount of debt due in 1832 -	199,596	13	4
The debt of the city appears to have been diminished between 1819 and 1832 by - - - - - - - - -	£32,003	6	8

Productions, No. 10.

One of the chamberlains has stated, in explanation of this seeming reduction of debt, that prior to the year 1819, the treasurer had lent £42,000 to the harbour of Aberdeen, which is under the management of trustees appointed by Act of Parliament; and £11,171 to the trustees on the Stonehaven road; and that since 1819, the whole of the latter sum, and £35,000 of the former have been repaid. These two sums amount to £46,171; therefore, while there has been a reduction of debt to the amount of £32,003 6*s.* 8*d.* assets have been parted with to the amount of £46,171. Evidence, p. 17.

The property parted with, then, exceeds the debt paid off by £14,167 13*s.* 4*d.*

Of the city debt due upon the *treasury account*, there is now due to charities under the charge of the magistrates and council - - - - - - £68,306 13 4

To benevolent institutions - - - - - - -	35,080	0	0
Individuals - - - - - - - - - -	78,660	0	0
	£182,046	13	4*

ALIENATIONS.

Besides contracting the above debt the magistrates have sold, since 1793, heritable property belonging to the town, for which they have received £19,444 12*s.* 11*d.* independent of feus granted to the extent of £5,765 6*s.* 9*d.* yearly feu duty, which are not to be considered Alienations. Appendix, No. 3.

ADMINISTRATION.

The Administration of the property and revenues of the city of Aberdeen was, prior to November 1833, under the management of a magistracy and town council, chosen by their predecessors in office, and in which, it is generally understood, one interest had exercised, for many years, a paramount influence.

The council so constituted was entirely irresponsible; no one out of council, and few in it, knew the situation of the town's affairs; their management was most improvident; they undertook works far beyond their means; the affairs of the town became so embarrassed that they were obliged, in 1817, to surrender the management of them to the creditors of the city.

At this crisis, (19th September 1817,) the magistrates and council, at retiring from office, recorded their opinion of their own previous management in the following terms: "In justice to themselves, however, they are desirous to place upon record their sentiments and opinions in reference to some of the various topics arising out of the embarrassment of the city treasury. They therefore here reiterate their decided opinion that the present mode of election of the town council, and management of the town affairs, are radically defective and improvident, tending to give to any individual, or party, who may be so inclined, an excessive and unnatural preponderance, and to foster and encourage a system of secrecy and concealment, under which the most upright and best intentioned magistrates may not be able to acquire that thorough knowledge of the situation of the burgh which is requisite to the due administration of its affairs." See Report of the Committee of the House of Commons, 1819, p. 27.

The payment of the debts due to the town by the harbour commission, and the Stonehaven road trustees, the fall in the rate of interest, and a great rise in the rents of the city's fishing in the bay of Nigg, have enabled the town to meet the most pressing demands upon its funds; and the magistrates and council have been, since the year 1825, reinstated in the administration of the city affairs, but their management seems still to have been far from prudent, and the expenditure has been continued on a scale which the town cannot afford.

According to the above account, upon the average of five years preceding Michaelmas 1832, the expenditure of the city has exceeded the revenue by £2,344 annually; and the finances of the city are in a worse situation than in 1829, by £14,167 13*s.* 4*d.* Besides the magistrates, being harbour trustees, are still liable for the debt of £35,000 paid up by the harbour; for that sum was paid not from savings, but by borrowing.

There is a statement added to the Return of the Property, Revenue, and Debts of the City, given in by one of the chamberlains in explanation of the contraction of the large debt now due by the city, in which it is said that it arose entirely from the expense of opening up the new streets, which, at Martinmas 1816, amounted, with arrears of interest, to £171,280 1*s.* 3*d.*, and that it was contracted for works authorized by a general meeting of the inhabitants occupying houses rented at £5 and upwards. Appendix, No. 1.

It is true that a meeting of the inhabitants authorized measures to be taken for opening up the new streets, but they never authorized the contraction of the debt with which the town See Report of the House of Commons Committee, 1819, p. 22.

* In a note upon the statement of property sold, (Appendix, No. 3,) it is said that the council, in 1824, were enabled to settle with the whole of the city creditors to the full amount of their debts, principal and interest. This must have been done by procuring new loans, as the debt has not yet been paid off.

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is now burdened. The expense which they authorized to be incurred in the improvements sanctioned by them was about £37,000, by far the greater part of which, it was represented to them, would be met by the sale of building stances along the new streets; and they were kept in ignorance of any further expense having been incurred, by the annual exhibition of fictitious accounts. In the account of the affairs of the city exhibited to the inhabitants in 1809, the debt was stated at £6,874, when in fact it was £130,000, or £140,000; and from the year 1813 till the year 1817, when the town became insolvent, no debt appeared upon the abstract accounts exhibited annually to the burgesses.

Report House of Commons Committee, 1819, pp. 356, 357, 358.

It is further said that the debt has been incurred for improvements on the town, which have been made without any assessment on the inhabitants; but the inhabitants have been assessed for water, lighting and cleaning, watching and rogue-money; and the schoolmasters, as will afterwards appear, have been deprived of part of their salaries, all which should have been paid from the common good of the town.

The common good included in the treasury account, has been squandered on purposes for which it was not meant. With the exception of part of it applied in payment of the chamberlain's salary, there is none of it now appropriated to the proper purposes of the town, and it has become necessary to provide for them by assessments.

It has already been observed, that the excess of expenditure over the revenue of Aberdeen has arisen upon the extraordinary expenditure. All parties seem confident that such expenditure will now be put an end to; the community generally look forward with confidence to the future management of the town's affairs, under which no doubt seems to be entertained, that they will ultimately be retrieved. Of the large debt due by the city, only £800 was called up at Martinmas last (1833); and several large sums were then offered in loan to the city treasury, which it could not receive.

TAXATION. Evidence, p. 4.

The Taxes levied by the magistrates within the city, are the petty customs and weigh-house dues, rogue-money, town officers' dues, and King's cess.

Petty Customs.

The Petty Customs are levied upon goods brought into the city, such as grain, meal, meat, fruit, &c. An account of the rates levied will be found in the printed tables, forming part of the returns made to the House of Commons in December 1832. This tax is complained of, as it falls unequally upon the inhabitants, and is expensive and vexatious in the mode of collection. These customs are let by public roup, and produce between £800 and £900 a-year. The weighhouse dues are let in the same way, and produce about £200 a-year; both those taxes are levied in virtue of grants contained in the city's charters, followed by usage from time immemorial.

It appears from the accounts of the common good of Aberdeen rendered to Exchequer at Martinmas 1633, that when the revenue of the city was not sufficient to pay the expenses of its common works and other charges, annually, the inhabitants stented (taxed) themselves to make up the deficiency.

Appendix, No. 8.

Rogue-Money.

The Rogue-Money is levied by virtue of statutes passed for building a county gaol and bridewell in 1802, 1819, and 1825. By the first, 42 Geo. III. c. 47, s. 70, it is enacted, "That the money to be raised under it is to be applied for defraying the charges of apprehending and prosecuting criminals, rogues, and vagabonds, who shall happen to be found within the said city and liberties, and for subsisting them in prison after being so apprehended, *and for no other purpose whatsoever.*"

By the statute passed in 1819, 59 Geo. III., the money to be levied is to be applied "in aid of the rogue-money collected for the said city, and for defraying the additional charges that may be incurred by the said magistrates or commissioners, (commissioners for building the gaol and bridewell,) in virtue of this present Act, *and for no other purpose whatever.*"

The Act passed in 1825 amends both the former Acts, and ordains the rogue-money to be applied "in aid of the funds authorized to be raised by the said Acts of the forty-second and fifty-ninth years of the reign of his late Majesty, *for apprehending and prosecuting rogues and vagabonds found within the said city of Aberdeen, and the freedom and liberties thereof, and for subsisting, maintaining, and keeping them in safe custody, and for no other purpose whatsoever.*"

The magistrates are in the practice of paying the gaoler and turnkeys, the gaol porter, and executioner, one half of the expense of keeping the new court house, an allowance to the superintendent of police, and various furnishings and repairs, besides water and gas for the gaol, out of this fund. This expenditure of the rogue-money is very generally complained of, and it appears to be applied to purposes not within the meaning of the above Acts.

Town Officers' Dues.

The Town Officers' Dues was originally a tax of 4*s.* upon each burgess of guild, and 2*s.* upon each trades' burgess, imposed by act of council 1564, and collected by the town officers. From the increase of the town, the sum required, £36 per annum, is now raised by a small tax of 7*d.* upon each burgess; it is laid on with the cess, and collected with the other taxes.

Cess.

The Cess is levied at the rate of 5*d.* sterling on the £100 Scots real rent and casual profit, and 5*d.* sterling on the £100 sterling of amount of trade in the course of the year. The amount of rent and trade is fixed by stent-masters named by the council. The land tax paid by the city to Government is £526 10*s.* annually. The expense of collecting and incidental charges, amounted in the years 1831-2, to £128 15*s.* 6*d.*, which is more than 20 per cent.

Appendix, No. 2.

The above taxes are levied on the whole burgh and freedom lands, contained in the charter granted to the town by King Robert the Bruce in 1320.

THIRLAGE. Evidence, p. 83.

The corporation of the city claims a right of Thirlage over the town, which, it is stated, is exercised injudiciously. M'Kinnon and Co. possess a large steam-power in Windy Wynd

of Aberdeen, which they wished to apply to machinery for manufacturing grain for the London market; but it was intimated to them that the magistrates would not allow them to do so, as the ground on which they intended to erect the grain-mill was within the town's sucken, and interfered with their right of thirlage. Eight or ten mills, besides that above mentioned, it is said, have been prohibited by the magistrates on the same principle; and it is estimated that they have thus cut off a branch of trade which would have brought into the town £50,000 per annum. The commissioners have no power to give any opinion on the right of the magistrates to prohibit the erection of the mills in question, but they have thought it their duty to receive the complaints of those interested, and to inquire at the tacksman of the city mills as to the extent of the thirlage which he claims; he has informed them, that his mill is a corn-mill, that he does not claim a right of thirlage over imported grain, but only upon that grown within the thirl; and that any person might import grain and grind it into flour, without being liable in any payment to the thirl. The charter of King Charles I., dated 9th September 1638, grants to the town the thirlage of grain grown within the thirl, and of grain tholing fire and water within the same; but it does not grant to them any thirlage of grain *invecta et illata.*

Evidence, p. 85.

Evidence, p. 84.

Evidence, p. 106.

Although it is not properly a burgal tax, it is proper to state here that the inhabitants of Aberdeen complain much of the amount of statute labour conversion-money which is levied from them, compared with the amount expended within the bounds of the city.

By Act 39 and 40 Geo. III. s. 32, regulating the assessment for statute labour conversion-money for Aberdeenshire, which is a perpetual Act, the county is divided into districts, the ninth of which comprehends the town of Aberdeen, the lands and fishings situated within the freedom and liberties thereof, those parts of Old Machar lying south of the river Don, and the salmon fishings on the Nether Don; and power is given to the justices under the Act, of whom the provost, four bailies, dean of guild, and treasurer of Aberdeen, make seven, to expend the money levied in the district, on the roads in the different parishes wherein it is levied.

During the last ten years there has been levied within the bounds of police of the town of Aberdeen £3,328 9*s.* 2*d.* conversion-money, and there has been expended during the same period, within the same bounds, £299 9*s.* 2*d.* only; the surplus has been applied to roads beyond the bounds, or to debts due upon them. This is thought a great hardship by the inhabitants of Aberdeen, who are, besides, very heavily taxed under their Police Act, for the maintenance of the streets, &c. within its bounds.

JURISDICTION.

The Jurisdiction of the magistrates extends over the whole city and freedom lands; they issue precepts upon decrees, and acts of warding over the whole. The magistrates exercise this jurisdiction in person, assisted by an assessor, and can try civil actions not relating to heritage, to any amount; the Bailie Court is held for this purpose every Saturday. They grant diligence upon bills, when the obligants reside within their territory. The bailies also sit daily in the Police Court, which is attended with great labour. A memorial has been presented for the magistrates and commissioners of police, setting forth very strongly the necessity of appointing a permanent judge to officiate in the Police Court. The proceedings there are summary, and for petty offences. The magistrates cannot try for theft in the Police Court, where the value of the article exceeds £10, and they cannot punish by imprisonment for more than sixty days; but they are sheriffs within the royalty, and in that capacity can try for more serious offences, and inflict more severe punishments. There have been cases where they have condemned to six months' imprisonment. In ancient times they tried both civil cases and offences of a lighter nature by juries. The assessor of the magistrates of Aberdeen is not the town clerk; his appointment is during pleasure, and he is paid a salary. He is generally an advocate of Aberdeen.

Evidence, p. 24.

Evidence, p. 102.

The magistrates hold no small debt courts. The sheriff exercises a cumulative jurisdiction with the magistrates within burgh in civil cases. In some cases the Bailie Court is preferred to the Sheriff's, because the bailies have the power of executing their own decrees by acts of warding, which the sheriff has not; but since the passing of the Sheriff's Small Debt Act, the civil business in the Bailie Court has very much decreased. In 1820 there were 569 ordinary actions brought into it; in 1832 there were only 363.

Evidence, p. 51.

Productions, No. 13.

The jurisdiction of the Dean of Guild is not so extensive as it usually is in other burghs. It is confined to inspection of weights and measures. The superintendent of works attends to the erection of buildings within the burgh, to see that they do not encroach on the streets or on neighbouring proprietors. The police attend to nuisances and encroachments upon the streets, when the property is not the town's, in virtue of powers contained in the Police Act for the city, passed in 1829, the provisions of which are enforced by the magistrates and sheriff, on complaint of the procurator fiscal for the city, the inspector, clerk, or superintendent of police.

Dean of Guild.

The dean of guild has no council of tradesmen.

It appears to be the prevailing opinion, that the whole territory within the parliamentary boundary of Aberdeen, might be united under one jurisdiction, provided the individuals living without the boundaries of New Aberdeen were secured against liability for the existing debts of the city, that the benefits of the charities of Old and New Aberdeen were reserved to their different incorporations, respectively; that the funds of the different incorporations in the two towns shall be reserved to them entire, under their own management. That a burgess of Old Aberdeen shall, after the Union, be eligible as a councillor of the conjoined cities, without entering as a burgess of New Aberdeen, that the police establishment of the two towns shall be kept separate, as Old Aberdeen is now supplied with water, lighted, and cleaned, at a very

Evidence, pp. 34, 52, 67, 75, 109, 113, 131.

Evidence, p. 111.

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small expense by a voluntary assessment imposed by the inhabitants themselves; that the town-house of Old Aberdeen shall be given to the incorporations of the town; that the money now in the hands of the magistrates of Old Aberdeen (£300) shall be laid out upon it, and that the different parishes shall remain liable for the maintenance of their own poor as at present.

There is a voluntary assessment for the support of the poor in Old Machar, and there is about to be a legal assessment in Old Aberdeen. In the six parishes of New Aberdeen, there is no assessment for the support of the poor; they are maintained from sums mortified for their use, by weekly collections at churches, &c. The receipts for the year 1833, were,

	£.	s.	d.
Weekly collections	1,142	9	8
Annual ditto	56	17	2
Interest	75	18	1
Rents and feu duties	262	10	0
Voluntary contributions	375	7	0
Legacies and donations	329	2	0
Church session balance	295	8	7
Total Income	£2,737	12	6

Productions, No. 18.

The expenditure exceeded the income by £293 15*s.* 6½*d.*

There is a peculiarity in the terms of one of the mortifications for the use of the poor, that of Mr. Burnett, dated 24th March 1783, who vested certain lands in trustees, the rents to be applied to the use of diseased poor in the parish of Aberdeen, and in the event of there being none such, to the aged poor of the same; but under this condition, that if there was at any time any legal assessment for the poor of the parish, then the produce of the mortified lands should be paid to the managers of the infirmary, during the continuance of the assessment, and if the assessment continued seven years, then the trustees should be bound to denude in favour of the managers of the infirmary.

PATRONAGE.

The magistrates and council have the appointment of the city assessor, town clerk, town clerk depute, city chamberlain, collector of cess, procurator fiscal, superintendent of works, quarter master, gaoler, town-housekeeper, and six town serjeants.

The town council are patrons of the six churches of St. Nicholas parish, but the heads of families of the South Church, which was formerly a chapel of ease, built by private subscription, are entitled to recommend two candidates, one of whom the council is bound to present, or if they (the heads of families) can agree upon one person, he must be presented by the council. All the churches are single charges.

Part of Aberdeen is situated in the parish of Old Machar, the patronage of which belongs to the Earl of Fife.

The council are patrons of the professorships of mathematics and divinity in Marischall College.

There are 36 bursaries in Marischall College in the presentation of the council; and one, to which they present alternately with the Duke of Gordon and the Earl of Aberdeen. The bursaries vary in value from £4 10*s.* to £10 per annum, and are given for four years.

The following schools are under the patronage of the council.

1st. The Grammar School, where Latin and the elements of Greek are taught by a master and two under masters, who are paid certain salaries from mortified funds under the charge of the council. Upon an application to the council in 1807, they granted an addition to the salaries of the masters from the common good, but when the town's affairs became embarrassed, this addition was not paid. It appears upon the abstract accounts 1827-28, that there was an arrear due to the schoolmasters of £770 13*s.* of which £608 15*s.* 6*d.* was then paid, leaving unpaid £161 17*s.* 6*d.* due to the heirs of Mr. Nicol, one of the masters, who had died; and by the abstract account 1828-29, it appears, that besides the sum due to Mr. Nicol's heirs, which is there stated at £160 19*s.* 8*d.* there was a further sum of arrears due to Mr. Falconer, which had not been stated in the former year's accounts, amounting to £129 16*s.* 6*d.*; so that between 1816 and 1828, the schoolmasters' salaries had been allowed to run in arrear to the extent of £900 9*s.* 6*d.* These arrears have now been paid up, but the council have withdrawn the additional allowance given to the masters by the act of council 1807, who have in this way suffered by the mismanagement of the town's affairs.

Act of Council, 30th June 1807.

Productions, No. 16.

2nd. The parochial school, for teaching to read, the master of which is also keeper of the register of baptisms, and as such has a salary of £22 4*s.* 5*d.* from the kirk fund.

3rd. The school in St. Clement's parish.

4th. The mathematical, arithmetical, and commercial school.

5th. The writing school.

The masters of the three last have no salaries.

The council have also, under their management, various mortifications, producing about £400 annually, destined to the purposes of education.

The deceased Dr. Andrew Bell bequeathed £9,791 13*s.* 4*d.* three per cent. stock to the town council of Old and New Aberdeen, for the purpose of establishing schools on the Madras system. It has been thought advisable to separate the management of that bequest, and £7000 of the fund has been appropriated to New Aberdeen, and £2,791 13*s.* 4*d.* to Old Aberdeen.

Evidence, p. 32.

Evidence, pp. 65, 73, 119, 125. Also Statement by Mr. A. Gordon. Productions, No. 4.

The council of New Aberdeen, as soon as the division of the fund took place in April 1833, sold out of the funds, and gave their share of the bequest in loan to the harbour trustees, to meet some floating debts. The late provost has said, that "he considers this investment

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most advantageous for the charity; a good rate of interest is given, and the security, as he thinks, is most redundant." But it cannot be said that the fund is thus employed in terms of Dr. Bell's bequest, the purposes of which the council do not seem yet to have taken any steps to accomplish, which is to be regretted, as there is a want of schools at present in Aberdeen.

EXCLUSIVE PRIVILEGES.

There are two classes of burgesses in Aberdeen; burgesses of guild, who are entitled to carry on all branches of merchandise within the city and liberties, but not to exercise any craft; and the freemen of the seven incorporated trades, who have the privilege of exercising their respective trades only.

The fees of entry as a guild burgess to a stranger are now £50, of which £17 go to the charitable funds provided for the decayed members, and widows and children of decayed members of guildry, and the remainder to the common good of the city.

The fees to sons of burgesses amount to £8. Apprentices, and sons-in-law of burgesses, pay £40.

The funds of the guildry, destined to charitable purposes, are not under their management, or that of the dean of guild; they are under the sole management of the magistrates and council, who raise the fees of entry as they think proper.

Return to Parliament, December, 1832.

The average amount paid from the guild fund during the last five years to decayed members, &c. has been about £1,600 annually.

Evidence, p. 22.

There are generally prosecutions of unfreemen once in two years. Sometimes 80 in one year. They are brought in the name of the dean of guild, who, previous to the passing of the Burgh Reform Act, was chosen by the town council, and prosecutions were sometimes suggested to him by merchants, and sometimes by the magistrates, in order to get contributions to the burgh funds.

Return to Parliament by Town Clerk, 22d December 1832.

The present rate of entry as a trades burgess, exclusively of entry money to the incorporated trade to which the individual belongs, is £11 12*s.* $2\frac{8}{12}$*d.* to a stranger, and the boxmaster of the incorporation pays besides for each stranger entering, £6 13*s.* 4*d.* to the town, in terms of an indenture entered into between the craftsmen and guild brethren in 1587.

Productions, No. 14.

Apprentices, and sons-in-law of freemen, pay £6 1*s.* $7\frac{4}{12}$*d.*; persons, both apprentices and sons-in-law of freemen, £3 5*s.* $6\frac{8}{12}$*d.*; eldest sons of freemen 10*s.*; *younger sons* of freemen £1 10*s.*, at being admitted trades burgesses; and the boxmaster of the intrant's incorporation pays, besides, to the town for apprentices and sons-in-law of freemen, £3 6*s.* 8*d.* each; and the younger sons of freemen £1 6*s.* 8*d.* each. Craftsmen pay a higher rate of shore dues than guild brethren.

Both guild and trades burgesses enjoy the benefit of hospitals and charities established in Aberdeen.

The charters granted to the royal burghs of Scotland generally empowered them to receive all manner of artificers into them. There is no special grant of this kind in any of the charters of Aberdeen which we have seen, but they contain general grants of all privileges competent to other royal burghs.

See Kennedy's Annals of Aberdeen, vol. ii. p. 242.

Some of the trades of Aberdeen appear, from the city records, to have been recognised as separate bodies from the rest of the community at a very early period: the date of their being first noticed in the city records, so far as is known, is placed opposite to the denomination of each, in the following enumeration of them:

The hammermen, consisting of 106 members, anno 1519; the bakers, having 67 members, anno 1398; the wrights and coopers, having 113 members, anno 1527; the tailors, having 81 members, anno 1511; the shoemakers, 87 members, anno 1484; the weavers, having 35 members, anno 1449; and the fleshers, having 37 members, anno 1518.

Evidence, p. 44.

The fees of entry to these incorporations vary according to the value of their funds, and the age of the intrants; they assume the power of raising or lowering them as they please. The fees payable by a stranger, under 30 years of age, to the hammermen, including the town fees, amount to £85. The shoemakers' entry money, including the town's fees, is £90; the weavers £60; the wrights and coopers, between £90 and £100.

Evidence, p. 45.

Some of the incorporations are very rich, and all of them are possessed of considerable funds. The hammermen have a fixed income of from £900 to £1,000 per annum, and pay in annuities and charity about £927 per annum. The wrights and coopers have an income of about £800 per annum, subject to a debt of between £1,000 and £2,000, and pay in annuities and charity about £338 annually. The weavers have nearly £300 per annum, subject to a debt of £1,400, and pay, in annuities and charity, about £158 annually. The tailors have an income of £983 6*s.* $6\frac{3}{4}$*d.* per annum, burdened by a debt of £7,168 5*s.* 4*d.*, and pay in annuities and charity annually about £748. The fleshers have an income of £343 16*s.* 8*d.* per annum, and pay in annuities and charity annually about £133. Their income arises chiefly from the rents of stalls in the slaughter-house and butcher market, for which they pay a feu duty of £90, and they are in debt £300.

Productions, No. 20.

The bakers and shoemakers have not made any return of their incomes, but the bakers pay about £178, and the shoemakers £218 annually in annuities and charity.

Decayed members, and widows and children of decayed members of the trades, besides receiving aid from their own incorporations, likewise receive aid from the funds of the trades' hospital belonging to the whole incorporated trades. The trades have likewise a widow's fund, to which each intrant pays a certain sum at his admission, and each corporation contributes yearly. The charitable institutions of the trades pay to decayed members, and widows and children of decayed members, £3,500 annually.

See Returns to Parliament, December 1832.

24 Geo. II. c. 31, s. 23.

All the incorporations possess the exclusive privilege of exercising their crafts within the royalty, except the weavers, whose exclusive privilege was taken away by the statute passed

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for the encouragement of linen manufactures, in so far as regarded the manufacture of linen, and which, in practice, has been held to apply to all kinds of weaving. Some of them grant licenses to unfreemen to work for an annual payment; the hammermen grant such licenses at £5 per annum, payable to their box-master. There are at present five such licenses granted by this incorporation to unfreemen.

Evidence. pp. 37, 43, 45, 46, 81.

The guildry complain much of the exclusive privilege of the trades, and the trades of the exclusive privilege of the guildry. Both parties would be pleased to see the distinctions between them done away; and, with very few exceptions, the witnesses examined are of opinion that the exclusive privileges of the guildry and trades should be abolished entirely, as hurtful to the community, and of no advantage to the trades themselves.

The exclusive privileges of the trades are much invaded by king's freemen, and unfreemen living in the suburbs, and by strangers coming from a distance.

Evidence, p. 87.

A cloth merchant in Aberdeen cannot employ a London cutter, as many of them wish to do, to cut out clothes with which they may furnish their customers; but the agent of a London tailor, may take as many measures and orders in Aberdeen as he can get, and send the clothes from London: this is done daily without challenge.

Evidence, p. 56.

Evidence, pp. 71, 72.

Instances of rigorous prosecutions of unfreemen, both by the town and trades, have been brought forward; and the unlimited power of raising the entry dues, assumed by the trades and council, renders the right of enforcing them still more oppressive. A member of the incorporation of shoemakers says: "When he was a young man, he used to think much of exclusive privilege, but he has been taught by experience that it does much mischief to trade. The Trinity Hall and Town House are two parliaments of vexation; they increase the entry money as they please."

Evidence, p. 43.

Evidence, p. 97.

Evidence, p. 93.

On the other hand, a member of the corporation of bakers is of opinion that it would be injurious to do away the exclusive privileges of the incorporated trades. He has given his reasons in a paper which is appended to the evidence; and a late deacon of the hammermen is of opinion that the exclusive privilege is of no great value, yet that his trade would not like to part with it. A memorial was presented to the Commissioners from Alexander Smith and others, unfreemen, complaining of the exclusive privileges of the incorporation of tailors.

Productions, No. 7.

The trades of Aberdeen have the right of presenting several bursars to Marischall College. The convener of the trades, master of the trades' hospital, and seven deacons, exercise the right. The candidate "best qualified in gifts," according to certificates from the professors, "and unablest in means," is preferred, agreeably to the will of the donor, Dr. William Guild.

See Memorial for the Convener and Members of the Trades.

Productions, No. 19.

Evidence, p. 95.

The trades consider it a great hardship that they are not now represented in the council, as they formerly sent two members to it; and they fear that their right of sending their children to Gordon's Hospital, for their education may be neglected for want of a representative in the council. Their apprehensions have not been confirmed by the last election of councillors (Nov. 1833); six councillors have been chosen from their body, and one of them has been elected a bailie.

They also complain much of being obliged to pay a higher rate of shore dues than the guild burgesses.

Productions, No. 6.

If the exclusive privileges of the burgesses of guild and trade shall be done away, the city will lose the revenue it now draws from the entries of burgesses, which is considerable, amounting, upon an average of the last seven years, to about £596 per annum; and it is the opinion of several intelligent members of the community, that a power of assessing the inhabitants should be given to the magistrates and £10 householders in Head Court assembled, in order to make up the deficiency.

ELECTION OF MAGISTRATES AND COUNCIL.

See Report of the Committee of the House of Commons in 1793, p. 5.

The charters of Aberdeen do not contain any regulations for the Election of the Magistrates and Council. The manner of their election has varied at different times. Prior to the middle of the fifteenth century, they seem generally to have been elected in the *curia gildæ* or *curia ballivorum gildæ*. During a considerable period, they seem to have remained in office for many years, if not during their lives. About that time complaints being made of the mode of their election by the burgesses, submissions were entered into between them, and the magistrates and council, and two decrees-arbitral were pronounced, by which the sett or constitution of the burgh was settled. According to this sett, at every election of the council, which was to take place yearly, a list of guild brethren was made, by inserting in it the name of each guild brother, whose name any of the old council might desire to be placed there; and out of this list the present provost, bailies, and the whole old council, made choice of thirteen brethren of guild, to be of the new council for the year to come.

Next. The old council chose four of their own number, who, being added to the former 13, made up the number of 17 brethren of guild; and

Lastly. The old council having got the roll of the deacons of trades, they made choice of two of these deacons to be of the council, which completed the number of 19 for the council of the ensuing year.

See Report of Select Committee on the Royal Burghs of Scotland, 1820, p. 68.

Then, the whole old and new council, with the six deacons of trades, and four deacons of the old and new council, chose, first, the provost, then four bailies, a dean of guild, a treasurer, a master of the kirk-work and bridge-work, a master of the mortified money, a master of the guild hospital, a master of the shore, called master of impost, and six single councillors, who bore no office, but sat and voted in all affairs before the council, with the two deacons of trades.

The election of the magistrates and council was conducted according to the above sett down

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to the date of the 3 and 4 Will. IV. By this Act the number of the council remains as formerly, 19, including the dean of guild, now elected by the guildry, who is a councillor *ex officio*, in terms of the Act.

Of the 18 remaining councillors, six were chosen at the election in November 1833, by the holders of houses, shops, &c. valued at £10 and upwards yearly rent of each of the three wards respectively, into which the city is divided. Six councillors, besides the dean of guild, are to retire from office annually; and, at future elections, two councillors will be chosen by the electors of each of the three wards to supply their places, according to the provisions of the statute, and the King's proclamation, dated at St. James's, the 16th October 1833.

A retiring councillor may be immediately re-elected. This has been represented as objectionable, from its affording the means of forming a party in the council; and it has been recommended to require that a year should elapse from the time of a councillor going out of office before he should be re-eligible. Evidence, p. 9.

It appeared to be a very general opinion in Aberdeen, that the election of councillors by wards was objectionable, as leading to the creation of separate interests in the council; that the system ought to be abolished, and that the qualified voters should each vote for the whole 18 members of the council eligible by them; as many different polling places being appointed as the number of electors may render necessary. Evidence, p. 59. Evidence, p. 121. Evidence, p. 132.

It has also been suggested, that a nomination of the persons to be proposed as councillors previous to the time of election would be expedient.

The present number of councillors is generally thought sufficient to conduct the business of the town. Evidence, p. 120.

The supply of water, the lighting, watching, and cleaning of Aberdeen, are under the charge of Commissioners, elected by persons possessing dwelling-houses, shops or warehouses, rented at £5 and upwards, under authority of an Act of Parliament passed in 1829; and of the provost, dean of guild, and treasurer, and the convener of the incorporated trades for the time being, *ex officio*, Commissioners under the Act. POLICE.

The annual assessment upon the valued rent of dwelling-houses rented at £3 and under £7, is 2*s.* per pound; on shops below £7, it is 1*s.* 7*d.* per pound; on dwelling-houses at and above £7 valued rent, the rate is 2*s.* 7*d.* per pound; and on shops, warehouses, &c. it is 1*s.* 10*d.* per pound.

The rental upon which the assessment is laid is about £55,000, and the produce of the assessment is about £5,500 per annum. There is an additional assessment of 6*d.* per pound where water is taken into private houses, which yields about £500 per annum. Besides,

There is a debt of £43,000 due by the police establishment, of which £36,000 is upon the water department. The Commissioners are only empowered to borrow a sum not exceeding £36,000 by the Act, unless in the event of being obliged to anticipate the assessment, in which case they may borrow £1,000 additional, to be paid within three years. The police is considered sufficiently efficient. s. 109. s. 120.

The Gaol of Aberdeen is clean, well aired, and commodious, having airing yards for the gaol prisoners; but there is not sufficient attention paid to the classification of prisoners, and there is no means of warming the sleeping cells, which are very cold in winter. GAOL. See Evidence of the Sheriff Substitute of Aberdeenshire, and the Surgeon of the gaol.

There is a great want of a sick room in the gaol.

By a statute passed in 1829, the Harbour of Aberdeen was placed under the joint management of the magistrates and council, and six trustees to be chosen, five by the guild burgesses, and one by the trades burgesses of Aberdeen. The magistrates were previously sole trustees, under an Act passed for the improvement of the harbour, and the erection of wet and graving docks in 1810. HARBOUR.

The revenue of the harbour for the year ending at Michaelmas 1832, was £12,595 17*s.* 3*d.* The debt due by it was about £173,000. The magistrates (of 1832—3) consider that this money has been beneficially expended, but it is a point very much disputed, and it is certain that the inhabitants have never yet obtained wet and graving docks, which were the principal objects contemplated in the improvement of the harbour, upon which large sums have been expended, and for which an Act was obtained doubling the harbour dues. Evidence. p. 49. See Statement. Appendix, Nos. 5 and 6.

CHARITIES.

There are a great many charitable institutions in Aberdeen, unconnected with the common good of the city, the funds of which are under the sole management of the magistrates, *ex officio*. These are, Charities.

The Guild Box, and additional fund to the Guild Box. See Appendix, No. 2.

Mortification, by Walter Cochrane.

Ardo's Tomb.

Forty-nine different funds, *nominally* under the charge of the master of mortifications.

Master of Guild Brethren's Hospital.

Mortification to Poor Persons and the Infirmary.

George Ogilvy's Donation, and Lands of Elsick.

Lady Durris's Mortification.

John Nicol's and George Davidson's Mortifications.

The whole personal funds belonging to these different endowments have been lent to the town without heritable security, and the existence of these charities now depends upon the town's solvency.

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Evidence, Committee House of Commons, 1819, p. 273.

In 1819, the debt due to the charitable institutions of Aberdeen, under the sole management of the magistrates of the city, was £65,000 13*s*. By a return made to the Commissioners by Mr. Hardie, the city chamberlain, in November 1833, it amounted at Michaelmas 1832, to £67,956 13*s*. 4*d*., and remains now, it is believed, at that sum, having increased £2,956 13*s*. 4*d*. since 1819.

The magistrates have even sold lands belonging to the charities, and other funds not the property of the town, but under their management, as trustees for the charities, &c. to supply the wants of the town treasury by loans.

Several institutions or trusts had a joint interest in the lands of Easter Skene. Two-tenths of them belonged to the Guild Box, and two-tenths to the Guild Brethren's Hospital, charitable funds belonging to the guildry; three-tenths belonged to the Guild Wine Fund, and three-tenths to the bridge of Don. The Guild Wine Fund belongs to the incorporation of the city, at least it has been so considered for many years; but they have no right to the funds of the bridge of Don.

In 1815, it was known to those acquainted with the affairs of the city, that the treasury was insolvent.

Appendix, No. 3, Entry, 113.
Productions, No. 8. s. 3.
House of Commons Committee, 1819, Evidence, p. 289.
Appendix, No. 3.

Bailie McCombie, who had been formerly in council, and a magistrate, was at this time a creditor of the town. Part of the lands of Skene was sold to him for £12,000; and it appears from the Return made by Mr. Hardie to the Commissioners, dated 11th November, 1833, that since that time further sales had been made of the lands of Skene; the prices received for which amount to £1,434.

It has been stated in explanation of these sales, that "during the period of the account, there was expended, at different times, £2,150 for subscriptions and loans to turnpike roads connected with the lands; and £3,600 was paid for a renunciation by Andrew Davidson, advocate, of a valuable lease over part of the property, upon which he had made great improvements, for 38 years, whereof there were 17 years to run, besides the life of the person in possession at the expiry of the 38 years.

The sale of the lands was not required for these purposes. The whole of the £12,000 paid by Bailie McCombie for the lands, was instantly lent to the city treasury; and the result of the sale was, that the different endowments to which the lands sold had belonged, became creditors to the insolvent treasury in place of Bailie McCombie.

Mr. W. Carnegie's Evidence before Committee of House of Commons, 1819, pp. 289, 290.

Even the price of Mr. Davidson's lease was not paid out of the price of the lands. The dean of guild, to whom the price of the lands was paid, he being the nominal manager of the funds, chiefly interested in it, borrowed at least £1,700 to pay for the lease, at the same time that he lent the whole £12,000 received for the lands to the treasury.

He paid 5 per cent. for the money borrowed, and it does not appear that he ever received more than 4 per cent. for the money lent.

Appendix, No. 3, Entries, No. 56, 57, 58, and 59.
Productions, No. 8, s. 5.

In the year 1807, the magistrates sold feu duties and superiorities belonging to the Guild Brethren's Hospital, for which they received £1,496 10*s*. 1*d*. It is not pretended that these sales were necessary for the purposes of the hospital.

The lands and barony of Muchalls were purchased in 1772, for £7,720, by funds belonging to different mortifications, and vested in the master of mortifications in trust, for their benefit; they were let to persons of the name of Clark, at the date of the purchase on lease, for three 19 years from 1768. The Clarks possessed the lands till 1780, when upon their death or bankruptcy, the lease was purchased by the magistrates and council, not for the mortifications, but for the treasury, at the price of £1,080.

Evidence, Committee of the House of Commons, 1819, pp. 291, 347.
Return to the Commissioners of Property Sold.—Appendix, No. 3, entry, No. 7.
Appendix, No. 4, entry, No. 46.

The magistrates and council, who are the real managers of the funds nominally under charge of the master of mortifications, ordered the lands of Muchalls to be sold in 1802. They were sold to Mr. Silver for £20,000, and the price lent to the treasury. It is not alleged that it was wanted for any other purpose.

The lease held by the treasury was also sold to Mr. Silver for £3,500.

The mortifications never received any rent from that lease, but the interests of the purchase-money.

The magistrates and council of Aberdeen have, then, sold above £34,000 worth of the heritable property belonging to the charities of which they were sole trustees, not for the purposes of the trust, but to be applied to the relief of the town treasury or its creditors.

All the charitable funds are charged annually with a proportion of the salary of the city chamberlain. This seems proper, as that gentleman keeps their accounts; but many of them are, besides, charged annually with a proportion of the town clerk's and assessor's salaries, and municipal charges generally, to a very considerable amount, which is inadmissible.

Besides the charities which are under the management of the magistrates and council solely, they are joined in the management of Gordon's hospital, with four of the ministers of Aberdeen, and have therefore a majority of nineteen to four in the management of the affairs of that hospital, which is endowed for the education of the sons and grandsons of burgesses of guild and free craftsmen; and they are also joint managers with other trustees of the lunatic asylum, to which the town is indebted £1,765; and of the infirmary, to which the town is indebted £1,500.

Evidence, p. 107.

The funds of Gordon's hospital, after erecting the hospital house, and buildings connected with it, were invested in lands. Some of these lands were feued out, and, in 1796, the feu duties, and also the superiorities of part of them were sold, either by public sale, or by private bargain, after having been exposed to public sale. These sales were not necessary for the purposes of the foundation; but Mr. Morrice, clerk and factor to the hospital, states, it was

thought the estate would be improved by vesting the prices received for them in lands; but no land was bought. The prices of the feu duties and superiorities were lent to the town treasury, and the harbour trustees; and the whole remained with them till recently, when part of them was employed for extending the buildings of the hospital, in which formerly there were only 84 boys,—at present there are 112; and there is now accommodation for many more than the funds of the hospital could maintain; but a Mr. Simpson left two estates to trustees named by him, for maintaining boys in Gordon's hospital; and by an agreement between Mr. Simpson's trustees and the trustees of the hospital, the additional buildings were erected for those boys, who will be received into it when Mr. Simpson's trustees pay their proportion of the expense of the building. It appears that this transaction is not authorized by the charter founding the hospital, which limits the expense of building to £2,000.

Appendix to Deed of Mortification, p. 47. Productions No. 17.

The magistrates and council would have sold lands belonging to Gordon's hospital about the year 1816 or 1817; but these lands were then held jointly by the hospital and the infirmary, and the directors of the infirmary would not consent to the sale, because they were satisfied the lands were the best property they could hold, and this part of the property of the hospital was saved. There is no such check now upon the alienation of these hospital lands, as they have been divided, the infirmary holding one-third part, and the hospital two-thirds; worth about £40,000; £60,000 was the price offered when the magistrates wished to sell the whole.

Evidence before Committee of House of Commons, 1819 p. 280.

The manner in which these charitable funds have been managed, when they are either under the sole management of the magistrates and council, or when their influence predominates in their management, shows the necessity of some check being placed upon their administration, to secure the application of the funds to the charitable and other pious purposes to which they have been destined by their donors.

The bridges of Dee and Don are under the sole management of the magistrates and council of Aberdeen. Their funds, too, have been misapplied.

Besides the three-tenths of the lands of Skene, belonging to the bridge of Don, already mentioned in the sales of property belonging partly to charitable institutions, the magistrates and council have sold superiorities and feu duties belonging to the bridge of Dee, for which they received £1,793 2*s.* 11*d.*, besides disposing of lands for a yearly feu duty of £364 9*s.* It has been said a greater sum was expended on repairs of the bridge than the price of the feu duties sold, but a sale could not have been necessary for these repairs, or the bridge funds could not have lent money to the treasury.

Appendix, No. 4.

The treasury was indebted to the bridge of Don £7,977 15*s.* 6*d*, and to the bridge of Dee £3,970 at Michaelmas 1832, and the debt remains the same now. The funds of these bridges are also made to contribute to the town clerk and assessor's salaries, and other municipal charges, which is inadmissible.

It seems proper that all the funds under the charge of the magistrates and council, but not belonging to the town, should be put under charge of committees of council, so small that they would feel their responsibility individually, and who should be bound to see the funds intrusted to their care applied according to the deeds constituting the trust; but leaving the chamberlain still factor upon them if that saves expense.

Evidence, p. 110.

The following Documents, not included in the Appendix, accompany this Report.

1. Evidence taken by the Commissioners at Aberdeen, September 1833.
2. Statement by the Rev. Mr. A. Gordon.
3. Memorial, Alexander Smith and others against the exclusive Privileges of the Incorporation of Tailors.
4. Letter, Mr. Hardie to Mr. Campbell, 19th November 1833.
5. Ditto ditto, 22d November 1833.
6. Ditto ditto, 5th December 1833.
7. Ditto, Mr. James Nicol, Advocate to Mr. Campbell, 9th September 1833.
8. Printed Abstracts of Accounts, 1827 to 1832.
9. Return of Causes, Civil and Criminal, in Bailie and Police Courts, since 1820.
10. Extract Common Indenture between the Town of Aberdeen and Incorporations, &c.
11. Act of Council anent Guild Wine Fund.
12. Act of Council anent Schoolmasters' Salaries.
13. Printed Copy Deed of Mortification of Gordon's Hospital.
14. Printed Copy Deed of Mortification by Mr. John Burnett.
15. Memorial for the Convener of the Trades of Aberdeen.
16. Return with two relative Accounts of the Commutation Road Assessment levied in Aberdeen, and the Expenditure thereof.
17. Return as to tax of 7*d.* on each Trader in Aberdeen in name of Officers' Dues.
18. Return relative to the Maintenance of the Poor.
19. Memorial for William M'Kinnon and Co.
20. Letter, Mr. Alexander Allan, Clerk to the Trades, 23d January 1834.

JAMES CAMPBELL.

APPENDIX TO REPORT ON THE CITY OF ABERDEEN.

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No. I.—ACCOUNT showing the PROPERTY, REVENUE, and DEBTS belonging to the COMMON GOOD or TREASURY of ABERDEEN, as at Michaelmas 1832:

1. Property.

	Revenue. £. s. d.	Value as in Town's Books. £. s. d.
Lands, &c., in occupancy of tenants, exclusive of building areas along new streets	912 9 8	22,557 17 8
Building areas along new streets, almost entirely unproductive except from rents of houses on the ground	764 9 0	27,193 16 4
Houses	577 0 0	6,252 8 4
Feu duties (exclusive of new streets)	2,063 14 11	45,109 18 10
Ditto new streets	3,999 15 6	79,592 15 10
Churches.—Accounts kept separate from treasury.		
Mills	649 0 0	11,521 5 0
Harbour.—Under a special Act of Parliament.		
Fishings.—Bay of Nigg	660 0 0	6,000 0 0
Customs.—Market and weighing dues	1,200 9 6	12,000 0 0
Debts owing to the burgh	313 6 0	8,267 16 7
Common sewers, pavements along streets, &c., a great part of which, although at present unproductive, will have to be repaid by feuars	. . .	5,464 7 11
Cash	. . .	19 12 10
Total	£11,140 4 7	£223,979 19 4

2. Revenue, 1832.

	£. s. d.
Feu duties	6,063 10 5
Rents of lands, houses, mills, &c.	3,562 18 8
Ditto of customs, market and weighing dues	1,200 9 6
Interest of debts due to the burgh	313 6 0
Harbour	0 0 0
Wine impost	0 0 0
Twopennies on ale	0 0 0
Total	£11,140 4 7

3. Expenditure, 1832.

	£. s. d.
Interest of treasury debt	7,468 18 8
Annuities	87 10 0
Feu duties and other public burdens affecting treasury properties	406 18 9
Repairs of property, &c.	535 0 4
Salaries to chamberlain and superintendent of works	285 0 0
Printing, advertising, stamps, and other miscellaneous expenses	237 0 3
Ordinary expenditure	£9,020 8 0

Account showing the Property, &c., belonging to the Treasury of Aberdeen, continued:

4. Debts due by the Burgh.

	£.	s.	d.
Heritable	0	0	0
Moveable	182,046	13	4
On bonds of annuity	900	0	0
Cautionary relief, or warrandice	0	0	0
Open accounts	0	0	0
Disputed claims	0	0	0
Total	£182,946	13	4

N.B. The casual articles of receipt and expenditure, for 1832, are not included in No. 2 and No. 3, but they will be found in the statements, containing abstracts of the treasury and all the other funds under the administration of the council, which are annually printed and circulated, copies whereof will be herewith delivered.

Explanation as to the Debts due by the Burgh.

In reference to the heavy debt which has been contracted, and is still due by the community of Aberdeen, it may be proper to explain that it arises entirely from the expenditure incurred, in opening and making two new streets or approaches to the town, under the authority of an Act of Parliament, passed on 5th April 1800. These streets, now called Union Street and King Street, which are nearly two miles in length, and which had to be carried through the most central and populous parts of the town, had their origin in a very numerous and respectable general meeting of the inhabitants, paying £5 of rent and upwards, called by the Commissioners of Police, and held in the public Court-house, on 26th February 1799.

At that meeting, a committee was appointed "to consider what roads, streets, &c., it might be necessary to alter or enlarge, and what new ones it might be proper to open,—what further supply of water and other necessary improvements are wanted,—to procure plans and estimates of the expense, and to report their opinion upon the whole to another meeting, to be held on or before the 1st day of July then next."

That committee held many meetings on the subject, and after having procured plans and estimates, came to "the unanimous opinion that two new avenues or streets from the south and north should be carried into execution, as being not only most commodious for the public in general, but also as being more adapted to extend, open up, and beautify the town itself, than any other lines which had been suggested; while there is every reason to expect that they may be executed without ultimately burdening the inhabitants with the expense, as the committee were induced to believe, from the information they had obtained, that these desirable improvements, from the sale of building areas along the streets, would finally reimburse the expense of their execution." The committee's Report was laid before an adjourned general meeting of the inhabitants, also called by advertisement, and held on the 1st of July 1799, when the same was "unanimously approved of, and ordered to be printed for the information of all concerned; and in order no time might be lost in advancing the great and essential improvements recommended by the Report, the general meeting of new appointed the same committee for carrying into execution what was suggested in their Report, and whom the committee invested with full powers for that purpose; and they requested the committee to bestow their immediate and further attention upon the different objects in view, so as to be enabled to furnish, not only the specific particulars thereof, but also estimates, as nearly as possible, of the general expense of carrying the same into effect, with a draught of a bill for the requisite Act of Parliament, for the information of all concerned." This Report of the committee, and the minutes of the general meeting, had also reference to a plan for supplying the inhabitants with water, by means of private pipes; but as the scheme had no connexion with the formation of the new streets, and was ultimately abandoned, it is not thought necessary here to detail it.

At a third general meeting of the inhabitants, called by public advertisement, and held upon 17th September 1799, the committee submitted Reports and estimates for the new streets from Mr. Charles Abercrombie, an engineer of great eminence, from which it appeared that the whole expense of the improvements might be estimated at about £42,000. The Report of the committee states, "That in a work of this kind, where no tax whatever is proposed to be raised, a temporary advance of a large sum of money must be obtained; and the committee being satisfied that it will ultimately be reimbursed, are of opinion that the most proper mode of raising such a sum is for the town council to interpose the credit of the community, and that it should be recommended to that body to do so accordingly." This Report was accompanied by a draught of a bill for an Act of Parliament authorizing the improvements; and the following is the resolution passed by the general meeting on that occasion: "Which Report and draught of the proposed bill having been read to, and deliberately considered by the meeting, they unanimously approve thereof, and of the different objects thereby recommended, and they request that the lord provost will take an early opportunity of laying the Report and draught of the proposed bill before the town council, with the unanimous and earnest request of this meeting that they will take the proper measures for carrying the same forthwith into effect." The minutes of this meeting, with the Report and draught of the proposed bill, were at same time ordered to be printed and distributed for the information of all concerned. And the thanks of the meeting were voted to

ABERDEEN.

Mr. Leys, the lord provost, " in testimony of the sense the community entertain of his unwearied exertions in promoting the foregoing measures, which will tend so much to improve and beautify the city, and be attended with the greatest utility and accommodation to its inhabitants and the public at large."

The magistrates and council, desirous to give effect to so earnest a call from their fellow-citizens, and to promote an object of so much importance to the comfort and convenience of the public, agreed to interpose the credit of the community in terms of the recommendation of the general meeting; and an Act of Parliament was accordingly passed during the session, authorizing the execution of the works.

By that Act it was provided, " that the trustees shall be obliged, on or before the thirty-first day of December 1800, to give notice, by advertisement, to the several heritors and life-renters whose properties were intended to be taken and purchased for the purposes of the Act, otherwise this Act shall be no longer binding upon the said heritors and life-renters; and after such notice and advertisement, it shall be in the power of the said heritors and life-renters severally, if so inclined, to compel the trustees to proceed and complete the purchase of such lands, tenements, and heritages, in the terms and upon the conditions of this Act."

The trustees, confiding in the accuracy of the estimates which had been prepared under the direction of the general meetings of the inhabitants, issued notices to the different proprietors, as enjoined by the Act; and proceeded to treat for the purchase of the several properties, and to take measures for carrying on the operations; but it unfortunately turned out that these estimates had been exceedingly erroneous, both as to the value of properties, and the expense of execution; the value of the property in the line of Union Street alone having far exceeded the sum total of the original estimates. It was then, however, impossible to retract.

The trustees, therefore, considered it incumbent on them to proceed with the works, and to use every means in their power to bring them to a conclusion, so as to render them effective for the objects that were in view; still feeling confident (from the high prices which were obtained for building areas, while the operations were only in progress) that, notwithstanding the great additional expense, it would ultimately be reimbursed; and there seems no reason to doubt but this would have been the case, had not an almost total cessation of building soon taken place, and continued till after the conclusion of the war. In consequence of that cessation, the annual revenue, for a series of years, fell short of the interest of the monies which had been expended, and the accumulation of interest latterly amounted to a very large sum.

The total expenditure, including accumulation of interest, from the passing of the Act in 1800, to Whitsunday 1816, amounted to no less than £171,280 1*s.* 3*d.* the whole of which was raised upon the credit of the community, in manner before detailed, without any tax or assessment upon the inhabitants.

An abstract of the expenditure thus incurred is hereto subjoined.

It may be here mentioned that, although there was for many years a large deficiency upon the revenue connected with the new streets, the other revenues of the treasury continued greatly to increase; and it will be seen from the accounts which precede this statement, that the free aggregate amount now very considerably exceeds the interest of the whole debt which is due by the community; while a great extent of valuable ground, particularly along the new streets, still remains unfeued, and almost wholly unproductive, but is gradually coming into operation, and will soon, it is expected, have the effect of further improving the revenue.

Aberdeen, 6th September 1833.

ACCOUNT of the EXPENDITURE incurred in Opening and Making the TWO NEW STREETS in the CITY of ABERDEEN, referred to in the foregoing Explanation.

I. Expense of Properties purchased.

	£.	s.	d.	£.	s.	d.
Properties in the line of Union Street	56,327	6	6			
Properties in the line of King Street	16,835	17	11			
Amount of this Branch				73,163	4	5

II. Expense of Works.

Union Street.

	£.	s.	d.	£.	s.	d.
Bridges, viz.						
Union Bridge, 4 arches, (main arch 130 feet span)	13,342	3	2			
Putachieside Bridge, 6 arches	3,634	19	1			
Correction Wynd Bridge, 1 arch	592	10	0			
Bridges				17,569	12	3
Common sewers, retaining walls, forming, levelling, embanking, &c.				11,514	12	7
Amount for Union Street				29,084	4	10

King Street.

Common sewers, forming, levelling, and embanking, &c.				5,331	18	1
Amount of Branch II.						
				34,416	2	11

III. General Expenses.

	£.	s.	d.	£.	s.	d.
Expense of Act of Parliament	735	0	0			
,, plans and surveys	988	1	11			
,, purchasing properties	283	0	8			
,, selling properties	258	10	2			
,, law proceedings	56	7	4½			
,, advertising, printing, &c.	184	14	3			
,, borrowing money	429	4	7			
Salaries to superintendents of works, clerk, accountant, &c. from 1801 to 1816	3,029	7	8			
Miscellaneous expenses	445	12	9½			
Amount of this Branch				6,409	19	5
Amount of expenditure on property, works, &c.				113,989	6	9
Accumulation of interest, after deduction of rents and feu duties received, to Whitsunday 1816				57,290	14	6
Total expenditure at Whitsunday 1816				£171,280	1	3

No. II.—ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS under the Administration of the Magistrates and Town Council of ABERDEEN, from Michaelmas 1831, to Michaelmas 1832:

RECEIPT. EXPENDITURE.

GUILDRY.

Lands of Skene.*

	£.	s.	d.
To balance at Michaelmas 1831	22	3	4
Feu duties and rents of Skene, crop 1831	591	13	6
Treasurer of Aberdeen, one year's interest of £17,330	693	4	0
Skene road, interest on £755 18s. 0d.	37	15	10
,, part of principal	37	15	10
Echt and Midmar road, interest on £600	30	0	0
,, part of principal	100	0	0
Kirk work, interest on £150.	6	0	0
	£1,518	12	6

Lands of Skene.

	£.	s.	d.	£.	s.	d.
By ministers' stipends, schoolmasters' salaries, and other disbursements				122	6	5
Proportion of salaries to town's assessor, clerk-depute, and chamberlain				41	10	0
Sum usually stated towards defraying municipal charges				50	0	0
Sundries, for proportions of revenue, viz.:	£.	s.	d.			
Guild box, 2-10ths of £1,300	260	0	0			
Guild wine, 3-10ths ,,	390	0	0			
Guild Brethren's Hospital 2-10ths ,,	260	0	0			
Bridge of Don, 3-10ths ,,	390	0	0			
				1,300	0	0
Balance				4	16	1
				£1,518	12	6

* The lands of Skene were purchased by the Council about 1710 or 1712, and they are held in name of the Dean of Guild, in trust for,

Guild box	two-tenths.
Guild wine	three-tenths.
Bridge of Don	three-tenths.
Guild Brethren's Hospital	two-tenths.

ROBERT CRUICKSHANK'S MORTIFICATION.

	£.	s.	d.
To balance at Michaelmas 1831	6	10	5
Treasurer of Aberdeen, interest of £100	4	0	0
	£10	10	5

	£.	s.	d.
By annuity to a burgess's widow	4	0	0
Balance	6	10	5
	£10	10	5

GUILD BOX.

	£.	s.	d.
To balance at Michaelmas, 1831	21	6	10
Lands of Skene 2-10ths of revenue	260	0	0
Annuity from John Turner's mortification	22	4	5
Treasurer of Aberdeen, interest of £1,570	62	16	0
Kirk charge, interest of £250	10	0	0
	£376	7	3

	£.	s.	d.
By annuities to decayed burgesses of guild, their widows, and families	296	0	0
Part of town's subscription of £105 to cholera fund	20	0	0
Balance	60	7	3
	£376	7	3

ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS, &c. (*continued*).

RECEIPT. EXPENDITURE.

ADDITIONAL FUND TO THE GUILD BOX.*

Established in 1736.

	£.	s.	d.		£.	s.	d.
To balance, at Michaelmas 1831	26	7	9	By annuities to decayed burgesses of guild, their widows, and families	377	0	0
Proportion of compositions from entering burgesses	192	0	0	Annuities for money sunk in the hands of the dean of guild	30	0	0
Treasurer of Aberdeen, interest of £9,680	387	4	0	Part of subscription to cholera fund	20	0	0
Kirk charge, interest of £1,400	56	0	0	Lent master of Kirk Work	200	0	0
				Balance	34	11	9
	£661	11	9		£661	11	9

* For relief of decayed burgesses, and their widows and families, established by the council in 1736, by appropriating part of the entry fees of burgesses in aid of the guild-box, and guild brethren's hospital funds.

GUILD WINE.*

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	11	14	1	By bridge of Don, interest of £800	32	0	0
Lands of Skene, 3-10ths of revenue	390	0	0	Proportion of town assessor's salary	20	0	0
Feu duties of ground, Queen-street	45	17	0	,, town clerk depute's	2	10	0
Rents of the cross, and of stalls in Poultry market	102	10	0	Dean of guild's officer's salary	25	18	8
Proportion of compositions from entering burgesses	23	0	0	Provost's officer's salary	30	15	0
Treasurer of Aberdeen, interest of £700	28	0	0	Four quarter officers' salaries	96	11	3
				Quarter-master's salary	20	0	0
				Repairs to sheds, Poultry market, dean of guild's office, &c.	80	4	10
				Sundry incidental expenses, including wine to town-hall, &c.	277	2	11
				Balance	15	18	5
	£601	1	1		£601	1	1

* Formerly banquets given by entering burgesses of guild, converted into money in 1582, and now applied towards defraying part of municipal charges of the burgh.

MORTIFICATION OF 1000 MERKS BY WALTER COCHRANE, TOWN-CLERK DEPUTE.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	5	3	11	By annuity to a relation of the mortifier	3	0	0
Treasurer of Aberdeen, interest of £80	3	4	0	Balance	5	7	11
	£8	7	11		£8	7	11

DEAN OF GUILD'S CASUALTIES.*

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	56	15	10	By proportion of town assessor's and chamberlain's salaries	25	0	0
Compositions from entering burgesses	271	17	6	Town-house keeper's salary	40	0	0
,, entering craftsmen	43	17	7	Sundry disbursements about town-house, including repairs, clothing to officers, &c.	285	6	11
Proportion of compositions received by the trades from entering craftsmen	142	13	4	Stationery to town-house	58	19	1
Dues for recording apprentices' indentures	21	10	0	Books, at visitation of public schools	62	9	6
Fine from an unfree trader	20	0	0	Printing, advertising, &c.	35	5	1
				Subscription to fire-engine establishment	15	0	0
				Balance	34	13	8
	£556	14	3		£556	14	3

* The sums payable under the head of "Casualties" are, and always have been, applicable to the ordinary affairs of the burgh; and (although under charge of the dean of guild) are, in fact, a part of the "Treasury."

ARMS' MONEY.*

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	6	7	6	By expense of repairing town's arms, and other disbursements	31	16	0
Compositions from entering burgesses and craftsmen	17	10	0	Balance	12	1	6
Treasurer of Aberdeen, interest of £500	20	0	0				
	£43	17	6		£43	17	6

* Formerly a piece of armour, furnished by intrants, converted into money in 1675.

COMMISSIONERS OF INFEFTMENTS' FUND.*

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	11	12	10	By bridge of Don, interest of £450	18	0	0
Rent of shop under council chamber	26	0	0	Bridge of Dee, interest of £300	12	0	0
				Balance	7	12	10
	£37	12	10		£37	12	10

* Originally feasts from vassals at subscribing charters, &c., afterwards converted into money, and latterly discontinued.

ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS, &c. *(continued)*.

MASTER OF KIRK AND BRIDGE WORKS.

KIRK WORK.

RECEIPT.	£.	s.	d.	EXPENDITURE.	£.	s.	d.
To interest of price of St. Nicholas Metts	10	0	0	By balance at Michaelmas 1831	88	1	10
Seat rents in the East, West, North, and Greyfriars' churches	1,078	4	6	Interest of £13,300, due by churches	532	0	0
Dues of burials in St. Nicholas' churchyard	73	5	2	Salaries to precentors, churchwarden, &c.	119	9	0
,, of mortcloths	63	16	4	Communion elements	24	7	3
,, of gravestones	31	5	0	Expense of collecting seat rents in four churches	12	12	0
Received for lairs in new burying-ground	110	0	0	Payment towards ministers' stipends	783	10	0
Rent of house, Backwynd	3	0	0	Rent of English school	7	0	0
Received for burials and new lairs in Footdee churchyard	45	9	6	Raising east wall of churchyard	41	8	0
Borrowed from different funds, under the charge of the magistrates and council, as in this statement, at 4 per cent. interest	1,100	0	0	Repairs to churches, and various disbursements	305	6	3
Balance	496	7	9	Paid in part of expense of building new church in King-street	1,097	13	11
	£3,011	8	3		£3,011	8	3

BRIDGE OF DON.*

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	67	1	8	By proportion of salary to town's assessor, clerk depute, and chamberlain	41	13	4
Annuals, mortified by Sir Alexander Hay, 1631	2	5	8	Sum usually stated towards defraying municipal charges	25	0	0
Lands of Skene, 3-10ths of revenue	390	0	0	Repairs to bridge, &c.	22	17	0
Kirk charge, 4 per cent. on £6,727 15*s.* 6*d.*	269	2	3	Interest of £8,672, borrowed for new bridge	346	17	8
Commutation trustees ditto, interest on sum due by them	17	0	0	Ditto of £2,000 remaining due to the contractor, and retained in security of the stability of the new bridge	80	0	0
Ditto, ditto, in part of principal sum	50	0	0	Balance	329	1	7
Guild wine, interest of £800	32	0	0				
Commissioners of infeftments, ditto of £450	18	0	0				
	£845	9	7		£845	9	7

* The original and only donation to this bridge (which was erected by King Robert Bruce) was an annuity of £2 5*s.* 8$\frac{1}{2}$*d.* bequeathed by Sir Alexander Hay. The fund having accumulated to upwards of £20,000, the town council, as patrons, obtained an Act of Parliament in 1825, authorizing them to apply part of the savings in building a new bridge in a more convenient situation. The new bridge (500 feet in length) was completed in 1830, and has since been open to the public, free of toll or pontage.

ARDO'S TOMB, &c.

	£.	s.	d.		£.	s.	d.
To balance on Ardo's tomb and other small *mortifications*, at Michaelmas 1831	60	19	4	By balance	67	1	1
Kirk charge, interest of £152 4*s.* 6*d.*	6	1	9				
	£67	1	1		£67	1	1

BRIDGE OF DEE.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	113	10	3	By minister's stipends, schoolmaster's salaries, and other public burdens affecting Gilcomston	35	0	11
Feu duties of Gilcomston, crop 1831	117	16	0	Proportion of salary to assessor, clerk depute, and chamberlain	41	13	4
Commutation trustees, interest of sum due by them	17	0	0	Sum usually stated towards defraying municipal charges	10	0	0
,, in part of principal sum	50	0	0	Repairs to bridge	32	14	1
Kirk charge, interest of £3,320	132	16	0	Lent master of Kirk Work	660	0	0
Commissioners of infeftments, interest of £300	12	0	0	Balance	103	18	11
Treasurer of Aberdeen, interest of £750	35	0	0				
Materials of old house sold	5	5	0				
Treasurer of Aberdeen, in part of £750	400	0	0				
	£883	7	3		£883	7	3

MASTER OF MORTIFICATIONS.

There are 50 different funds under the title of "Mortifications," the accounts of which are kept separate from one another. The following statement gives a general view of the receipt and expenditure of the whole, from Michaelmas 1831 to Michaelmas 1832.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	371	11	6	By paid professors, ministers, &c., in terms of different mortifications, viz.:—			
Feu duties and rents of Torry	533	12	11	By professor of mathematics, and library of Marischall College	128	17	3
Feu duty of Pitmedden	16	0	0	Principal and professors of ditto	55	0	1
,, Bethelnie	32	10	11	Professor of divinity	63	0	0
,, Ground, Drum's Lane	30	18	0	Minister of Greyfriars' church	82	10	0
,, Ferryhill	169	12	2	Part of town's subscription to cholera fund	45	0	0
,, Blackfriars' Garden	20	3	4	Minister of Footdee	144	4	0
,, Murtle, &c.	88	12	0	Librarian of Marischall College	14	3	4
,, Mill of Murtle	160	10	10	Rector and masters of Grammar School	164	0	0
,, Ground at Footdee church	67	4	0	Bursaries at Marischall College, Grammar School, &c.	329	19	0
Annuity from lands of Balquharn	20	0	0	Managers of Poor's Hospital	76	0	0
Treasurer of Aberdeen, interest of £27,826 13*s.* 4*d.*	1,113	1	4	Annuities to widows, orphans, &c.	496	11	6
Kirk charge, interest of £1,050	42	0	0	Mrs. Mather, in terms of her son's mortification	60	0	0
				Lecturer to poor at Newburgh	20	0	0
				Schoolmaster of Newburgh	37	0	0
				Vaccine Institution, from John Burnett's mortification	24	0	0
				Pauper Lunatic Fund, &c. from ditto, and Catharine Bows	75	15	0
				Chaplain to prison, from ditto	25	0	0
				Ministers' stipends and other public burdens affecting Torry, Ferryhill, &c.	98	7	7
				Usual allowance to town clerk, &c.	21	10	0
				,, towards defraying municipal charges	87	4	7
				Proportion of chamberlain's salary	10	0	0
				Lent master of Kirk Work	240	0	0
				Balance	367	14	8
	£2,665	17	0		£2,665	17	0

ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS, &c. (*continued*).

MASTER OF GUILD BRETHREN'S HOSPITAL.*

Hospital Charge.

RECEIPT.	£.	s.	d.	EXPENDITURE.	£.	s.	d.
To balance at Michaelmas 1831	3	11	9	By annuities to decayed burgesses of guild, their widows and families	489	10	0
Feu duty of Windmill Croft	10	10	0	Feu duty to superior of Kinmundy, three years	1	2	6
,, North Kinmundy	42	10	0	Part of town's subscription to cholera fund	20	0	0
,, of Boddoms	26	17	6	Balance	42	16	9
Lands of Skene, 2-10ths of revenue	260	0	0				
Treasurer of Aberdeen, interest of £5,050	202	0	0				
Kirk charge, interest of £200	8	0	0				
	£553	9	3		£553	9	3

* There was formerly a small hospital for the residence of a limited number of decayed burgesses; but it having fallen into disrepair, and there not being sufficient funds to repair or rebuild it, it was discontinued, and the property sold about 70 years ago; since which time the revenue of the fund has been annually divided among decayed burgesses and their families. It appears that very few availed themselves of the privilege of the hospital, and, at the time it was discontinued, it had only one occupant.

SUNDRY MORTIFICATIONS TO POOR PERSONS, INFIRMARY, &c.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	76	17	7	By managers of Infirmary and Lunatic Asylum	36	6	6
Proportion of Elsick feu duties, belonging to Bedlam fund	65	7	9	Annuities to poor persons, &c.	56	12	3
Treasurer of Aberdeen, interest of £795	31	16	0	Balance	83	2	7
Kirk charge, interest of £50	2	0	0				
	£176	1	4		£176	1	4

GEORGE OGILVIE'S DONATION

For a Foundling Hospital.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	64	9	4	By balance (there being no disbursement this year)	80	9	4
Treasurer of Aberdeen, interest of £400	16	0	0				
	£80	9	4		£80	9	4

LANDS OF ELSICK.

	£.	s.	d.		£.	s.	d.
To feu duties, crop 1831	400	6	6	By feu duty to superiors	8	0	0
				Sundries for proportions of free revenue, viz.—			
				Managers of infirmary, one half	196	3	3
				,, Poor's hospital, one third	130	15	6
				Bedlam fund, one sixth	65	7	9
	£400	6	6		£400	6	6

MORTIFICATIONS UNDER THE CHARGE OF THE TREASURER.

LADY DURRIS' MORTIFICATION.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	39	10	0	By payments to St. Paul's Chapel, and kirk sessions of Strachan and Durris, in terms of the mortification	30	0	0
Treasurer of Aberdeen, interest of £1,300	52	0	0	Sundry annuitants	17	15	0
				Balance	43	15	0
	£91	10	0		£91	10	0

JOHN NICOL'S MORTIFICATION.

	£.	s.	d.		£.	s.	d.
To balance at Michaelmas 1831	1	9	0	By annuitants, relations of the mortifier	5	0	0
Treasurer of Aberdeen, interest of £125	5	0	0	Balance	1	9	0
	£6	9	0		£6	9	0

GEORGE DAVIDSON'S MORTIFICATION,

Towards Payment of the Town's Ministers.

	£.	s.	d.		£.	s.	d.
To feu duties of Bogfairlie, Cloghill, Dykeside, and Borrowston, crop 1831	67	15	3	By teinds to King's College, crop 1831	5	9	4
Treasurer of Aberdeen, interest of £2,500	100	0	0	Free produce applied towards payment of ministers' stipends	162	5	11
	£167	15	3		£167	15	3

ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS, &c. (*continued.*)

RECEIPT. EXPENDITURE.

STATEMENT OF THE SUMS ASSESSED FOR LAND-TAX AND KING'S SUBSIDY.

	£.	s.	d.
To balance at Michaelmas 1831	277	1	4
Amount of assessments for 1831-2, per tax roll	837	17	2
	£1,114	18	6

	£.	s.	d.
By amount of land-tax	526	10	0
Salaries to collector and clerk, allowance to officers for taking up annual lists of the inhabitants for the information of the Board of Taxes, &c., including collector's risk of bad debts	97	17	0
Printing	5	0	0
Sundry incidental expenses, including books, servants attending board, coals, candles, ringing bells for meetings, &c.	25	18	7
Sum awarded by the sheriff for destruction of the Anatomical Theatre, by rioters, in December last, and expenses thereanent	306	2	11
Balance	153	10	0
	£1,114	18	6

ABSTRACT STATE OF STIPENDS TO TOWN'S MINISTER'S, SALARIES, &c.

	£.	s.	d.	£.	s.	d.
To balance on account of stipends, at Michaelmas 1831	7	7	10			
Teind duties of lands and fishings	114	6	3			
Sum charged from seat-rents in churches	783	10	0			
Free produce of George Davidson's mortification	162	5	11			
Free produce of Sir Thomas Crombie's ditto	82	10	0			
				1,150	0	0
To sums charged against the following funds, on account of salaries, as per preceding accounts, &c.:—						
Lands of Skene	41	10	0			
Guild wine	195	14	11			
Dean of guild's casualties	65	0	0			
Bridge of Dee	41	13	4			
Bridge of Don	41	13	4			
Lands of Torry	10	0	0			
Shore work	15	0	0			
				410	11	7
To sums in use to be charged against the following funds, towards payment of incidental expenses, as per preceding accounts, viz.:—						
Lands of Skene	50	0	0			
Bridge of Dee	10	0	0			
Bridge of Don	25	0	0			
Sundry mortifications	87	4	7			
Interest on chamberlain's accounts	6	15	8			
				179	0	3
				£1,739	11	10

	£.	s.	d.	£.	s.	d.
By stipends to town's ministers, viz:—						
Dr. Glennie	300	0	0			
Mr. Murray	300	0	0			
Mr. Foote	300	0	0			
Mr. Gordon	250	0	0			
				1,150	0	0
By Salaries, viz.:—Town's assessor's	105	0	0			
Town-clerk depute's	17	6	8			
Chamberlain and clerk's	75	0	0			
Billet-master's	20	0	0			
Town-house keeper's	40	0	0			
Town serjeant's	153	4	11			
				410	11	7
By repairs to public schools, &c., and various incidental expenses connected with the town's affairs				179	0	3
				£1,739	11	10

M.C.S. I—K

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ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS, &c. (*continued*).

ROGUE MONEY ACCOUNT.*

RECEIPT.

	£.	s.	d.	£.	s.	d.
To amount of assessment for 1831, including previous arrears	1,010	4	1			
Deduct sum charged in last year's accounts	700	0	0			
				310	4	1
Amount of sum collected, to account of 1832				700	0	0
Received from Exchequer, sum advanced last year for clothes to convicts ordered for transportation				7	17	2
Balance				356	8	1
				£1,374	9	4

EXPENDITURE.

	£.	s.	d.
By balance due by this account, at Michaelmas 1831	451	14	4
Procurator fiscal, one year's salary, in lieu of fees for precognitions and other criminal proceedings	105	0	0
Town clerk depute's fees of criminal proceedings	25	0	0
Clerks in chamber, for various writings in ditto	5	5	0
Bread and milk, bedding, &c., to criminals, including some disbursements by gaoler	74	6	5
Simon Grant, town serjeant, per account for criminal business	54	16	8
Charles Dawson ,, ,,	26	19	5
George Lyell ,, ,,	8	12	6
William Walker ,, ,,	4	6	9
George Middleton ,, ,,	1	16	0
Gaoler's salary	87	0	0
Three turnkeys' ditto	114	0	0
Porter's ditto	20	4	0
Executioner's salary, &c.	25	0	0
One half expense of keeping New Court House, in terms of Act of Parliament	67	12	5
Allowance to Mr. Grant for collecting last year, including printing books, &c.	64	19	8
Allowance to superintendent of police, one year to May 1832	20	0	0
Expense of watchmen on various occasions	13	12	0
Hugh Gordon and Co. furnishings to gaol	39	10	9
John Smith ,,	9	12	5
George Walker, plasterer	9	16	10
Expense of surgeons, &c., inspecting dead bodies, &c.	18	18	0
Attendance and medicines to poor prisoners	28	12	4
Printing, advertisements, handbills, and various outlays by procurator fiscal	26	5	9
Clothes to female convicts, previous to transportation	2	14	5
John Blaikie & Co. for gas-fittings, &c.	27	11	0
Half expense of legalizing new gaol	17	8	9
Water-tax, &c., for gaol	12	16	8
Gas for ditto	5	9	8
By some small disbursements	5	7	7
	£1,374	9	4

* The assessment for this fund is authorized by the Bridewell and Gaol Acts for the city and county, passed in 1802, 1819, and 1825, being at the rate of fourpence per pound of house rents.

ABSTRACT STATEMENT of the RECEIPT and EXPENDITURE of the different FUNDS, &c. (*continued*).

RECEIPT.

TREASURY.

	£.	s.	d.	£.	s.	d.
To balance on chamberlain's accounts, September 1831				10	4	5
Balance on Aberdeen bank account				40	0	0
REVENUE.						
To amount of feu duties this year	6,063	10	5			
Amount of rents	4,763	8	2			
Interest of £7,000 due by harbour trustees	280	0	0			
,, of £666 1s. 6d. due by Skene road	33	6	0			
Amount of ordinary revenue				11,140	4	7
To outstanding feu duties, as in last year's account	781	10	4			
Deduct feu duty formerly payable by Alexander Mackie, blockmaker, for ground at Footdee, now reverted to the town in consequence of his bankruptcy	29	0	0			
				752	10	4
To outstanding rents last year	39	16	6			
Whereof irrecoverable	5	0	0			
				34	16	6
To price of feu duty of £17 2s. 6d. payable by Mr. Robert Morice, and purchased by him at 25 years' purchase, as allowed by articles of roup				440	12	6
Composition from entering vassals				22	5	0
Skene road, received 5 per cent. in part of principal				33	6	0
Price of old materials sold				20	6	0
Received for deterioration from tenant of malt-mill	38	18	6			
Deduct paid for repairing said mill	30	0	0			
				8	18	6
				£12,503	3	10

EXPENDITURE.

TREASURY.

	£.	s.	d.	£.	s.	d.
By interest of treasury debt this year				7,390	17	8
,, ,, unclaimed last year, now paid				78	1	0
Sundry life-rent annuities				87	10	0
Feu duties and other public burdens affecting treasury property	373	11	1			
Insurance of properties	33	7	8			
Repairs of houses, shops, meal-market, weigh-house, and other subjects	233	12	6			
Repairs of fishers' houses at Footdee	176	11	6			
,, of streets, common sewers, &c.	124	16	4			
Printing, advertisements, stamps, and other miscellaneous expenses	237	0	3			
Charges of management, viz.: salaries to chamberlain, clerk, and superintendent	285	0	0			
				1,463	19	4
Amount of ordinary expenditure				9,020	8	0
By expense of paving opposite to treasury properties in King-street, North-street, St. Clement's-street, York-street, &c., in terms of Police Act, besides £1,000 expended last year	1,631	5	9			
Expense of new school-house at Footdee	317	8	4			
Expense of fishing sheil, for accommodation of Bay of Nigg fishing	43	13	11			
Iron work for façade, Union-street, opposite churchyard	49	14	9			
Treasurer's proportion of expense of new street at Trinities, made out by the town, the Trades' Hospital, and Messrs. A. Hadden and Sons	80	12	11			
Paid for a small property purchased	33	6	3			
Amount of casual expenditure				2,156	1	11
Treasury debts paid off this year				672	0	0
Aberdeen Bank, due by them on deposit account				60	0	0
Feu duties not yet paid				531	10	6
Rents ,,				43	10	7
Balance on chamberlain's accounts				19	12	10
				£12,503	3	10

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ABERDEEN.

No. III.—RETURN of PROPERTY SOLD or FEUED for the last Forty Years, previous to Michaelmas 1833.

Years.	Subjects Sold or Feued.	Names of Purchasers or Feuars.	Prices at which Sold. £.	s.	d.	Annual Feu Duties at which Feued. £.	s.	d.
		No.						
1793	Feu duty of lot of ground shorelands, £10	1 William Young (feuar)	226	5	0			
,,	,, ,, £10 5s.	2 William Forbes, ditto	256	5	0			
1796	Ground near Kittybrewster, feued to	3 Sir William Johnston				67	0	0
1801	Feu duty of ground, Marischall-street, £4	4 Thomas Bannerman (feuar)	100	0	0			
,,	Building areas, Marischall-street, feued to	5 William Dauney				20	16	0
,,	Piece of ground near Stocket, feued to	6 John Gordon				7	1	0
1802	Lands of Muchals sold to	7 George Silver	20,000	0	0			
1803	A strip of ground at Denburn	8 Alexander Crombie	60	0	0			
1804	Feu duty of Shettocksley, £55 16s. 8d.	9 William Young (feuar)	1,144	11	8			
	,, Greenferns, £16	10 Alexander Hector, ditto	328	0	0			
	,, Gateside, £10 10s.	11 Alexander Gildawie, ditto	215	5	0			
	,, Ground shorelands, £3 3s.	12 Alexander Brebner, ditto	63	0	0			
	,, ,, £5 5s.	13 David Walker, ditto	105	0	0			
	,, ,, £10	14 Sugar-house Company, ditto	200	0	0			
	,, ,, £9 5s.	15 Thomas Bannerman, ditto	185	0	0			
	,, ,, £5 5s.	16 James Mackie, ditto	105	0	0			
	,, ,, £7 15s.	17 William Young, ditto	155	0	0			
	,, ,, £9	18 Brebner, Gibbon, & Co. ditto	180	0	0			
	,, Marischall-street, £6	19 James Davidson, ditto	120	0	0			
	,, ,, £7 4s.	20 George Morren, ditto	144	0	0			
	Some small feu duties, £2 13s. 4d.	21 Robert Garden & others, ditto	57	6	8			
	Building areas, King-street, feued to	22 John Catto				97	15	0
	,, ,,	23 Thomas M'Combie				36	0	0
	,, ,,	24 Wrights and Coopers				42	10	0
	,, ,,	25 Alexander Christie & others				47	0	0
	,, Frederic-street	26 Ditto				54	0	0
	,, ,,	27 John Davie				7	12	0
	,, ,,	28 George Stott				8	0	0
	,, ,,	29 George Walker				8	0	0
	,, ,,	30 John Watson				61	4	0
	,, ,,	31 William Gray				4	8	0
	,, ,,	32 William Robertson				12	0	0
	,, Market-street	33 Robert Brand				22	15	0
	,, ,,	34 Alexander Kelman				13	0	0
	Feu duty of part of Gilcomston £17 15s. 7d.	35 Shoemaker trade (the vassals)	389	6	11			
	,, ,, £17 17s. 5d.	36 Trades' Hospital, ditto	391	3	10			
	,, ,, £29 17s. 8d.	37 John Chalmers, ditto	612	12	2			
1805	Town's reserved right of quarries on lands of Rubislaw	38 James Skene (the vassal)	1,500	0	0			
	Feu duty of ground shorelands, £2 5s.	39 Christopher Irvine	45	0	0			
	,, (£1 8s.) and additional angle of ground	40 Alexander Fraser	50	0	0			
1806	Building areas, Union-street, feued to	41 Duncan Davidson				180	10	0
	,, ,,	42 William Gordon				113	0	0
	,, Frederic-street	43 Arthur Hay				9	0	0
	,, ,,	44 Andrew Hall				18	15	0
	Feu duty of Springhill, &c., £7 10s. 2d. and casualties of superiority	45 William Forbes (feuar)	395	3	6			
	Reversion of lease purchased by treasurer from Alexander and James Clerk on part of Muchals	46 George Silver	3,500	0	0			
	Crown superiority of part of the lands of Skene	47 Robert Farquharson	325	0	0			
	Lochside of Skene, feued to	48 George Skene				27	2	6
1807	Building area, Union-street	49 John Urquhart				17	10	0
	,, ,,	50 Harry Lumsden				21	10	0
	Ground near bridewell	51 Bridewell Commissioners				25	0	0
	,, near chapel of ease	52 Kirk Session of Old Machar	100	0	0			
	Feu duty of ground at Loanhead, £4 13s. 4d.	53 Marischall College	100	0	0			
	,, Leddach, £64 10s.	54 Alexander Crombie (feuar)	1,510	0	0			
	,, South Kinmundy, £38 13s. 9d.	55 Miss Dyce, ditto	930	11	10			
	,, Pettens, £55 5s.	56 Alexander Smith, ditto	1,132	12	6			
	Superiority of North Kinmundy	57 Earl of Aberdeen	145	0	0			
	,, Boddoms	58 Alexander Duthie	80	0	0			
	Feu duty of part of Gilcomston, £6 14s. 10d.	59 John Brebner (feuar)	138	17	7			
	Superiority of Gilcomston	60 Ditto	400	0	0			
1808	Building area, King-street, feued to	61 John Smith				17	10	0
	,, Union-terrace	62 Alexander Dalgarno				16	15	0
	,, ,,	63 Peter Farquharson				25	0	0
	,, ,,	64 James Philip				11	11	0
	,, Netherkirkgate	65 John Barron				22	10	0
	Barren ground at Skene-road	66 George Thom				5	4	6
	,, ,,	67 Andrew and William Spence				10	10	0
	,, ,,	68 William Paterson				8	0	5
	,, ,,	69 Alexander Gildawie				15	0	0
	,, ,,	70 Ditto	108	16	8			
	,, ,,	71 William Mitchell	100	0	0			
	,, ,,	72 Alexander Gillespie	85	0	0			
	Building area, North-street	73 Alexander Webster	270	0	0			
	Feu duty of Bushybank, £3	74 John Annand (feuar)	63	0	0			
	,, of part of Gilcomston, £21 12s. 9d.	75 Professor Copland, ditto	454	7	9			
	Building of areas, Union-street, feued to	76 Francis Clerihew				256	0	0
	,, ,,	77 Charles Fyfe				67	10	0
	,, ,,	78 Leys, Masson, & Co.				163	2	6
	Vaults or cellars below Union-street	79 Ditto				50	0	0
	Building area, Union-street	80 George Mearns				48	0	0
		Carried over	36,471	6	1	1,638	1	11

Years.	Subjects Sold or Feued.	Names of Purchasers or Feuers.	Prices at which Sold. £.	s.	d.	Annual Feu duties at which Feued. £.	s.	d.
		No. Brought forward . .	36,471	6	1	1,638	1	11
1809	Building area, King street	81 Alexander Brebner . . .	.	.		60	0	0
	,, St. Nicholas-street	82 James Milne	.	.		39	10	0
	,, ,, ...	83 William Young	.	.		50	2	4
	,, ,, ...	84 John Chalmers	.	.		42	10	0
	Feu duty of Roten £7	85 Thomas Leys (feuer) . .	140	0	0			
	,, tenement, Netherkirkgate £17 14s.	86 William Knowles (ditto) .	354	0	0			
1810	Building area, Union-street, feued to	87 John Symon	.	.		48	0	0
	,, ,, ...	88 David Hutcheon	.	.		223	3	10
	,, ,, ...	89 James Ferguson	.	.		49	16	4
	,, ,, ...	90 Alexander Duncan . . .	.	.		56	18	8
	,, ,, ...	91 John Morison	.	.		120	0	0
	,, St. Nicholas-street	92 Charles Winchester . . .	.	.		13	15	0
	,, ,, ...	93 Francis Brodie	.	.		9	15	0
	,, ,, ...	94 William Annand	.	.		8	2	0
	,, King-street	95 Robert Catto	.	.		32	10	0
	,, Market-street	96 Robert Vass	.	.		12	7	6
	Barren ground at Barkmill	97 Peter Scott	.	.		10	13	0
	,, near Forresterhill	98 Edward Cleugh	.	.		2	15	0
	Feu duty Marischall-street £5 5s.	99 Thomas Leys (feuer) . .	105	0	0			
	Small angle of ground at Footdee	100 John Davidson	30	0	0			
1811	Building area, King-street, feued to	101 James Davidson	.	.		11	2	0
	Feu duty of ground at Denburn £1 17s. 6d. .	102 Robert Mackie	37	10	0			
1814	Building area, Union-street, feued to	103 William Read	.	.		24	0	0
	,, ,, ...	104 Sir Alexander Bannerman	.	.		18	3	0
	,, at Footdee	105 William Stephen	.	.		24	0	0
	,, ,, ...	106 Alexander Buchan . . .	.	.		6	2	6
	Feu duty of ground at Stockethead £5 8s. 6d.	107 George More (feuer) . .	108	10	0			
	,, Easter Kinmundy £83 6s. 3d. . .	108 James Davidson (ditto). .	1,666	5	0			
	Piece of ground at St. Catharine's-hill . . .	109 David Chalmers	150	0	0			
1815	Feu duty of Countesswells (£7 4s. 5d.) reserved right of mosses and casualties of superiority	110 James Gammell (feuer) .	981	5	0			
	,, (12s. 6d) and casualties of superiority of Lochlands	111 James Stadts Forbes (ditto)	150	0	0			
	,, of Auchronie £60 15s.	112 Alexander Crombie (do.) .	1,215	15	0			
	Lands of Millbowies and Easter Kirktown .	113 Thomas M'Combie . . .	12,000	0	0			
1816	Building area, Union-street	114 King's College	.	.		15	0	0
	,, near bridewell	115 Andrew Holmes	.	.		4	0	0
	Feu duty of part of Gilcomston £21	116 George Henderson (feuer)	420	0	0			
1817	In consequence of the great engagements come under by the magistrates and council in the purchase of properties, and in opening and making two new streets for the improvement of the city, in virtue of an Act of Parliament passed in 1800, the revenue arising from which, for a considerable number of years, fell far short of the interest upon the expenditure, the debts of the community had accumulated, in the beginning of 1817, to a very large sum, and although the property of the community and new streets was fully adequate ultimately to meet all those engagements, several of the creditors began to use arrestments, and to threaten other steps of diligence. The council, in order to prevent undue preferences, and save the expense of litigation, and in compliance with the desire of a general meeting of the creditors held on the 21st of February, 1817, conveyed the whole of the property belonging to the community, including the properties connected with the new streets, to certain trustees for behoof of the creditors, who accordingly entered upon and continued in the management thereof for several years, during which the revenue greatly increased. In consequence of that increase, and of confidence having been completely restored, the council were enabled in 1824 to settle with the whole of the creditors to the full amount of their debts, principal and interest, and in 1825 the trustees finally denuded themselves of the trust, and reconveyed the property to the council; the creditors having, in the mean time, during the subsistence of the trust, received payment of their interest half-yearly at the rate of 4 per cent. It may, perhaps, be proper to explain, that by the trust conveyance, the council "expressly reserved therefrom all and sundry lands, fishings, feu duties, debts, and sums of money which were vested in them or any of their number for charitable and other eleemosynary purposes, by deed of mortification or otherwise." And that none of these objects were in the least impeded or interfered with in consequence of the trust.								
	Building area, Union-street, feued to	117 Francis Clerihew	.	.		90	19	0
	,, Market-street	118 Richard Merchant	.	.		10	0	0
	,, King-street	119 Medical Society	250	0	0			
	Ground at Justice Mills, feued to	120 William Black and others	.	.		30	0	0
	Tenement in Castle-street, sold to	121 Alexander Garden . . .	400	0	0			
1818	Building area, Union-street, feued to	122 James Smith	.	.		64	10	0
	,, ,, ...	123 Marischall College . . .	.	.		79	10	0
	,, ,, ...	124 William Innes	.	.		13	4	0
	,, ,, ...	125 Alexander Galen	.	.		100	0	0
	,, ,, ...	126 George C. Moir	.	.		10	16	2
	,, ,, ...	127 John Clerk and Co. . . .	.	.		12	0	0
	,, ,, ...	128 John Morison	.	.		70	0	0
	,, ,, ...	129 George Sangster	.	.		15	0	0
	,, ,, ...	130 William Moir	.	.		10	16	1
	,, ,, ...	131 James Ig. Massie	.	.		44	2	0
	,, King-street	132 Robert Torrie	.	.		80	5	0
	,, ,, ...	133 Thomas Elmslie	.	.		12	2	0
	,, ,, ...	134 Alexander Russel	.	.		15	0	0
	,, ,, ...	135 James Roy	.	.		6	0	0
	,, Union-terrace	136 Robert Jaffray	.	.		2	0	0
	,, ,, ...	137 William Paterson	.	.		5	0	0
	,, ,, ...	138 Mrs. Duguid	.	.		3	10	0
		Carried forward . . .	54,479	11	1	3,195	2	4

See Report, p. 17, foot note.

ABERDEEN.

Years.	Subjects Sold or Feued.	No.	Names of Purchasers or Feuers.	Prices at which Sold. £.	s.	d.	Annual Feu duties at which Feued. £.	s.	d.
			Brought forward	54,479	11	1	3,195	2	4
1818	Building area, Union-terrace	139	Henry Lumsden	.	.		6	6	0
	,, ,,	140	Benjamin Wilson	.	.		7	10	0
	,, ,,	141	William Farquharson	.	.		4	11	0
	,, St. Nicholas-street	142	John Hay	.	.		5	7	0
	,, Footdee	143	James Adamson	.	.		3	15	0
	,, ,,	144	George Watt and Co.	.	.		4	10	0
	Ground at Denburn, feued to	145	William Bathgate	.	.		17	19	10
	,, near Stocket, sold to	146	George More	800	0	0			
	,, near Forresthill	147	Society of Advocates	430	0	0			
	Angle of ground at Justice-mill	148	Gavin Hadden	10	0	0			
1819	Building area, Union-street, feued to	149	Alexander Brown	.	.		375	8	0
	,, ,,	150	Alexander Gordon	.	.		9	0	0
	,, ,,	151	Marischall College	.	.		10	0	0
	,, ,,	152	Master of kirk work	.	.		74	0	0
	,, ,,	153	Simson Ogilvie	.	.		50	0	0
	,, Union-row	154	James Milne	.	.		10	16	8
	,, ,,	155	William Scorgie	.	.		4	10	0
	,, ,,	156	Benjamin Hall	.	.		9	12	0
	,, ,,	157	John Rae	.	.		5	0	0
	,, St. Nicholas-street	158	Alexander Mearns	.	.		17	1	0
	,, ,,	159	John Chalmers	.	.		28	12	0
	,, ,,	160	George Fullerton	.	.		8	5	0
	,, ,,	161	James Anderson	.	.		8	5	0
	Tenement, Castle-street	162	John Daniel	.	.		30	6	0
1820	Building area, Union-street, feued to	163	Alexander D. Fordyce	.	.		16	3	4
	,, Union-row	164	John Chalmers	.	.		20	0	0
	,, Union-terrace	165	William Clark	.	.		16	13	6
	,, Footdee	166	James Whyte	.	.		7	17	6
	,, ,,	167	Dr. Thomson	.	.		4	6	0
	,, ,,	168	Thomas Leslie	.	.		5	0	0
1821	,, Union-street	169	George Clerihew	.	.		63	0	0
	,, King-street	170	James Hardie	.	.		19	19	0
	,, Footdee	171	William Johnstone	.	.		25	0	0
	,, ,,	172	Donaldson Rose	.	.		41	15	3
	Ground at Poynernook	173	Forbes, Low and Co.	.	.		37	11	8
1822	Building area, Union-terrace, feued to	174	Church Society	.	.		7	16	10
	,, St. Nicholas-street	175	James Lamond	.	.		35	12	0
	,, ,,	176	Peter Stuart	.	.		45	3	0
1823	,, Union-street	177	John Reid	.	.		37	0	0
	,, Footdee	178	Alexander Hall	.	.		15	0	0
1824	,, Union-street	179	John Hay	.	.		7	4	0
	,, ,,	180	Alexander Smith	.	.		21	10	0
	,, ,,	181	Alexander Gordon	.	.		12	12	0
	,, ,,	182	Hammermen trade	.	.		16	0	0
	,, Union-row	183	Alexander Low	.	.		4	10	0
	,, King-street	184	Dr. Davidson	.	.		9	10	0
	,, ,,	185	John Smith	.	.		7	0	0
	,, Footdee	186	John Baxter	.	.		3	13	6
	,, ,,	187	John Duffus	.	.		30	0	0
	,, ,,	188	George Black	.	.		10	10	0
	,, ,,	189	Catto, Thomson, and Co.	.	.		91	5	10
	,, ,,	190	A. and T. Bannerman	.	.		64	13	9
	,, Poynernook	191	Gas Company	.	.		56	7	6
	,, ,,	192	Gavin Hadden	.	.		76	10	0
	,, Castle-street	193	John Bruce	.	.		4	10	0
	Lands of Western Cairnie, feued to	194	James Knowles, £275 of money, and 90 bolls of meal per Fiars, say 16s.	.	.		347	0	0
1825	Building area, Union-street, feued to	195	William Stuart	.	.		29	11	3
	,, ,,	196	Thomas Bannerman	.	.		39	1	3
	,, ,,	197	Harvey Thomson	.	.		14	16	0
	,, ,,	198	George Lyall	.	.		39	10	0
	,, ,,	199	Town and County Bank	.	.		61	16	4
	,, ,,	200	Aberdeen Insurance Co.	.	.		35	5	0
	,, ,,	201	James Dyce	.	.		42	18	0
	,, ,,	202	William Stuart	.	.		28	7	0
	,, ,,	203	Simson Ogilvie	.	.		12	12	0
	,, ,,	204	John Chalmers	.	.		44	5	0
	,, King-street	205	Trades' Hospital	.	.		9	0	0
	,, ,,	206	David Dunn	.	.		18	18	0
	,, Footdee	207	Nicol, Reid, and Co.	.	.		33	6	8
	,, ,,	208	George Neilson	.	.		21	0	0
	,, Union-row	209	Alexander Low	.	.		13	4	0
	Ground at Denburn	210	Robert Alcock	.	.		8	0	0
1826	Building area, Union-street	211	Alexander Copland	.	.		16	10	0
	,, ,,	212	Alexander Stewart	.	.		95	0	0
	,, ,,	213	William Black	.	.		59	17	0
	,, King-street	214	Mrs. Mitchell	.	.		25	0	0
	,, ,,	215	John Catto	.	.		22	10	0
	Small piece of ground at Justice Mill, sold to	216	Robert Morice	60	0	0			
1827	Building area, Union-street, feued to	217	William Carnegie	.	.		18	0	0
	,, ,,	218	Robert Morice	.	.		17	12	6
	Milltown of Buxburn	219	George Gordon	.	.		162	0	0
1828	Building area, Union-street, feued to	220	Duncan Davidson	.	.		20	16	6
	,, ,,	221	James Blaikie	.	.		29	12	0
	,, ,,	222	Miss Brand	.	.		9	15	0
	,, Union-terrace	223	James Mair	.	.		24	12	0
	,, King-street	224	William Birnie	.	.		18	18	0
	,, ,,	225	Thomas Elmsley	.	.		5	10	0
	,, St. Nicholas-street	226	Benjamin Spark	.	.		20	0	0
			Carried forward	55,779	11	1	6,043	15	0

Years.	Subjects Sold or Feued.	Names of Purchasers or Feuers.	Prices at which Sold. £.	s.	d.	Annual Feu duty at which Feued. £.	s.	d.
		No. Brought forward . .	55,779	11	1	6,043	15	0
1828	Ground at Poynernook	227 George Clerihew	.	.		23	2	0
1829	Building area, King-street	228 Alexander Webster . . .	.	.		25	4	0
	,, Union-street	229 Dr. Forbes and others . .	.	.		29	4	0
	,, ,, ...	230 Alexander Gibbon . . .	.	.		9	10	0
	,, ,, ...	231 Dr. Campbell	.	.		10	14	6
	,, Union-terrace	232 Capt. Carmichael	.	.		5	0	0
1830	Ground at Girdleness	233 Commissioners for Northern Lights	.	.		10	5	0
1831	Building area, Union-street	234 Alexander Stewart . . .	.	.		43	1	0
1832	,, ,, ...	235 Peter Brown	.	.		18	18	0
	,, King-street, for a new record office, feued at £31 10*s.*, and excambed with the land-holders of the county for the former record office, as being considered equivalent to each other	236						
1833	Building area, King-street	237 British Linen Company .	.	.		37	16	0
	Ground in Gas-street	238 Francis Clerihew	.	.		10	10	0
		Total	55,779	11	1	6,266	19	6

The prices received for the different subjects sold, in so far as not required for the purposes of the funds with which they were connected, were lent on interest to the treasurer of Aberdeen, to enable him to meet the engagements which he had come under in the purchase of properties, and defraying the expense of opening and making the new streets, (which were all accomplished without any tax or assessment on the inhabitants,) in advances, to a large amount, to the trustees for the improvement of the harbour, and in making the turnpike road from Aberdeen to Stonehaven.

The advances for the two last-mentioned purposes (with the exception of £7,000 still due by the harbour) have lately been paid up and applied in discharging part of the treasury debts.

Unintentional errors and omissions excepted.

11th November, 1833. (Signed) JAMES HARDIE.

No. IV.—STATEMENT as to the HARBOUR of ABERDEEN, transmitted to the COMMISSION by JAMES BLAIKIE, Esq., Provost of the City.

ABOUT the year 1775 a pier 1,200 feet long, extending into the sea, and other improvements planned by Mr. Smeaton, were begun. The magistrates and council at that time, although sole harbour trustees, used to call in some of their fellow citizens, scientific men and others conversant in such matters, to advise with them about the harbour,—an excellent practice, which in after times was allowed to fall into disuse. Smeaton's plans were executed at nearly the estimated expense, and were completely satisfactory. In 1796, the trade of the town increasing, further extensive improvements were planned by Mr. Rennie, but not much was done in them; for in 1802 a plan was produced for converting the whole basin of the harbour into a wet dock, with spacious graving docks, &c. &c. The magistrates adopted this plan; the estimated expense was given out to be £54,000; and at length, in 1806, (by which time that particular influence had become predominant which has ever since been paramount in the town council,) a Bill was brought into Parliament, doubling the shore dues, and continuing the magistrates sole trustees. Although it was strenously opposed, both on account of the plan itself, and the exclusive system of management proposed, the magistrates, having command of the public purse, carried the Bill. When before Parliament, the estimate had swelled up to £121,000, but it was confidently declared by the engineers that in four or five years the whole improvements might be finished. Such expectations proved remarkably fallacious; for eighteen years thereafter, the harbour being loaded with debt, and the improvements incomplete, the magistrates are found endeavouring to have the Bill renewed in the very same shape as before; but the attempt, although, as usual, conducted at the expense of the harbour funds, was defeated, and in 1829 they were obliged to submit to the harbour being placed under the joint management of themselves and six others, five chosen by the guildry and one by the trades. In this trust even any change of management was found impracticable, from the vast preponderance of self-elected magistrates; and now, twenty-three years since the passing of the Bill granting double shore dues for executing these improvements, there are neither wet nor graving docks.

The shore dues collected in that time amount to - - - - -	£193,000
And the debt has been increased in that time - - - - - -	147,000
Together	£340,000

To account, in some degree, for this enormous expenditure, Smeaton's pier has been continued much further into the sea, and an additional depth of water procured at the entrance of the harbour, which was much to be desired, but it was not executed in a stable way until after oft-repeated failures and rebuildings. It is remarkable, also, that scarcely any addition to the pier was to be seen on the plan submitted to Parliament in 1810; and, in fact, this plan, which, in the course of the operations, has been subjected to sudden and whimsical alterations, is now materially changed in its main feature, and even *that*, it is thought, will be found unadvisable, and be, after much useless expense, abandoned.

The harbour has vast natural advantages, and much may yet be done under judicious management.

ABERDEEN.

No. V.—STATEMENT of the INCOME and EXPENDITURE of

Revenue, or Income.	£.	s.	d.	£.	s.	d.
Shore and harbour dues	193,223	11	4			
Rents of property	19,694	10	7			
Feu duties	2,891	13	4			
Ballast sold to shipping	11,438	15	4			
Ropes under charge of the captain pilot	152	9	5			
Dividends from Aberdeenshire canal	979	0	6			
Old materials sold	1,023	14	4			
				229,403	14	10
Money due on bonds, bills, and open account at September 1833	176,566	12	10			
Deduct amount of debt at commencement of the Act in 1810	29,614	12	5			
				146,952	0	5
Balance in favour of Paul Jones' account at September last				370	19	9

Amount of revenue and money borrowed £376,726 15 0

the HARBOUR of ABERDEEN, from July 1810, to September 1833.

Expenditure.	£.	s.	d.	£.	s.	d.
Acts of Parliament	4,064	4	0			
Expense of application to Parliament in 1828	1,977	14	6			
				6,041	18	6
The north pier				66,024	7	11
The south pier				1,227	16	3
The breakwater	14,067	8	2			
Road to Grey Hope quarry	349	4	4			
Repairs to fishing stations at breakwater	258	13	7			
				14,675	6	1
Dredging the harbour and embanking the Inches	24,352	4	11			
Bulwark and embankment across Blackie Pool	3,387	3	4			
Bridge at Shore Brae	279	3	1			
Embanking north bank of river Dee, in 1823, 4, and 5	364	8	6			
Bridge at foot of Marischall-street	5,803	7	6			
Landing-slip at end of ditto	292	15	2			
Excavating new channel for river Dee	11,918	19	6			
Ditto new spillwater channel	6,800	17	7			
Ditto for graving dock	1,151	6	2			
Shiel house for salmon fishers	144	15	9			
				54,495	1	6
Old dredging machine, cost and repairs	5,343	2	0			
New dredging machine, cost	4,200	0	0			
Steam engine for pumping, cost and repairs	622	13	6			
Barges and boats, cost and repairs	9,328	5	11			
Utensils ditto	6,150	9	3			
	25,644	10	8			
Less appropriated to works for deterioration, tear and wear	8,709	14	10			
				16,934	15	10
Waterloo Quay, building, embanking, and paving	9,892	13	11			
New wharf wall at lower basins	8,178	7	2			
Regent and Trinity quays, building	20,929	9	8			
Rebuilding part of ditto	1,276	0	3			
Paving part of ditto	515	12	6			
New common sewer	1,890	11	2			
				42,682	14	8
Roads in Footdee, making and repairing	1,840	7	6			
Repairs of jetties, old wharfs, pauls, &c.	5,767	14	6			
Rebuilding old wharf near Lime Basin	514	7	3			
Removing Abercrombie's Jetty	123	2	7			
Repairs to Inch Dyke	465	2	10			
Taking stones from navigation channel	536	19	5			
Repairs to Pocra pier	497	2	0			
Berth for steam vessels at Waterloo quay	128	1	5			
				9,872	17	6
Paving streets in Footdee	566	2	1			
Making Clarence-street, and street at Poynernook	91	1	11			
Timber and lime for sundries	275	15	7			
Ropes under charge of captain pilot	122	4	4			
Embanking at back of boil-houses	20	3	6			
Feu duty of 25*s.* purchased	25	0	0			
Cleaning the quay	30	9	2			
Pole on Girdleness	27	14	9			
Day patrol on the Inches	84	5	0			
Well sunk on the Inches	15	18	10			
				1,258	15	2
Coal and lime measures, weights and scales	1,232	9	7			
Capstan at Torry	432	10	4			
New pauls	159	11	9			
Sheds on Waterloo and Regent quays	527	0	0			
				2,351	11	8
Paul Jones, tug steam boat, cost				2,350	0	0
Repairs of property				1,263	7	6
Charges on collection of shore dues	3,129	9	6			
Salaries £10,096 9 3						
Whereof appropriated to works 4,234 4 0						
	5,862	5	3			
				8,991	14	9
Incidental expenses, including guard at battery, &c.	8,831	9	11			
Whereof appropriated to works	3,960	2	8			
				4,871	7	3
Cost of property purchased since 1810				20,523	8	11
				253,565	3	6
Interest of monies borrowed	122,360	9	0			
Annuities for money sunk	801	2	6			
				123,161	11	6
Amount of expenditure				£376,726	15	0

ABERDEEN.

In 1810, an Act of Parliament was obtained for improving the harbour of Aberdeen; the plans, by Mr. Telford, comprehended extensive wet and graving docks, and the expense estimated was £120,000, and the whole might have been finished, according to the evidence of that engineer before the Committee in the House of Commons, in five years. The above table, ordered to be laid before the present magistrates, will show the enormous expenditure on the harbour of Aberdeen since 1810, and neither wet dock nor graving dock have yet been completed, nor are likely to be so. Several harbours on the east coast of Scotland obtained aid from Government, some by grants, others by loans, but, although the members of parliament, supported by the close corporation of Aberdeen, were uniformly supporters of the Government of the day, no grant or loan appears to have been given by Government, or applied for, and the sole management of the harbour has been vested in the self-elected corporation till the year 1829, when five trustees were added to the Harbour Commission by Parliament, the House of Commons having in 1828 thrown out a Bill, on its third reading, for continuing the magistrates sole trustees.

No. VI.—INFEODATIO REGIS ANSI.

WILLIELMUS, Dei gratia Rex Scottorum, omnibus probis hominibus totius terre sue salutem: Sciant presentes et futuri me concessisse et hac carta mea confirmasse burgensibus meis de Aberdoen, et omnibus burgensibus de Moravia, et omnibus burgensibus meis ex aquilonali parte de Munth manentibus, liberum ansum suum, tenendum ubi voluerint et quando voluerint, ita libere et quiete plenarie et honorifice sicut antecessores eorum, tempore Regis Dauidis aui mei, ansum suum liberius et honorificencius habuerunt. Quare prohibeo firmiter ne quis eos inde vexet aut disturbet, super meam plenariam forisfacturam. Testibus Andrea Episcopo de Katenes, Comite Dunecano Justiciario, Gilleberto Comite de Stradhern, Comite G. de Anegus, Ricardo de Morevilla, Constabulario Waltero de Berkelai, Camerario G. de Mallevilla, Hugone Giffard Malisio fratre Comitis de Strathern. Apud Pert.

No. VII.

WILLIELMUS, Dei gratia Rex Scottorum, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Prepositis Ministris, et omnibus probis hominibus totius terre sue clericis et laicis, salutem: Sciant presentes et futuri me in perpetuum quietes clamasse omnes burgenses meos de Aberdon, a tolneio de propriis catallis suis per totum regnum meum, pro bono servitio quod idem burgenses mei mihi fecerunt. Et ideo volo ut nullum per regnum meum dent tolneium de propriis catallis suis, firmiter precipio ut ubicunque in regno meo venerint perpetuo a tolneio quieti sint de propriis catallis suis. Quare prohibeo firmiter ne quis in regno meo eos injuste vexare presupmat in exigendo ab eis de propriis catallis eorum tolneium, super meam plenariam forisfacturam. Testibus Ricardo Episcopo Moravie, Comite Dunecano Justiciario, Gilleberto Comite de Mar, Willielmo et Waltero Capellanis meis, Philippo de Valoniis, Alano filio Rollandi, Constabulario Willielmo de Haia, Willielmo Giffard, Umfredo de Berkelai, Henrico Reuel, Thoma Thancard Yvone de Veteri Ponte, Waltero filio Sibald. Apud Aberdon, xxviij die Augusti.

No. VIII.—THE COMPT of the COMMON GUDE of the BURGHE of ABERDEINE, of the Martimes terme 1633, and Whitsonday terme 1634 maid and given wp be ROBERT SKENE, Thesaurar of the said Burghe for the tyme conteinand, charge and discharge as follows.

Summa of the charge - - - - - £2,962 13*s.* 4*d.*

SUMMA of the haill discharge extendis to the soume of ane thousand aucht hundreth threescoir auchteine pundis aucht shillings, the charge being tua thousand nyne hundreth threescoir tua pundis 13*s.* 4*d.* And so restis the comptar undebursit of his chairge, ane thousand four scoir four pundis 13*s.* 4*d.*, whilk is bestowit wponn the tounes commoun warkis commissionaris expenses; and this burghes pairt of the dewis payable at the Conventioun of Burrowes, so far as the same may extend to. And because the foirsaid rest is not sufficient to defray the samen, the nichtbours of the towne ar forceit to stent thameselfis for defraying of the rest of thair commoun chairgis. Subs^{t} be the clerk depute of the said burghe, at Aberdeine, 25 Junii 1634 yeires.

JO. INGRAHAME, Scriba Substitut.

REPORT

ON

OLD ABERDEEN,

(ABERDEENSHIRE.)

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OLD ABERDEEN.

OLD ABERDEEN is a burgh of barony, situated near to the river Don. It is distant about one mile from New Aberdeen, and is included within its parliamentary boundary.

It was formerly the seat of a bishop's see. The Bishop of Aberdeen is said to have been removed thence from Mortlach by David I. in 1154, who, by a charter, dated in the thirteenth year of his reign, it is also said granted "to God and the blessed Mary, St. Machar, and Nectarius, bishop of Aberdeen, the haill village of Old Aberdeen," &c. Malcolm IV. "confirmed to God and the blessed Mary, St. Machar, and Matthew, bishop of Aberdeen, the hail vill of Old Aberdeen, with the Kirk of Kirktown and the pertinents." These charters were confirmed by William the Lion; and by James IV., by a charter, dated August 1498, which narrated: "We have found, both we and our council, by our ancient registers and records, evidently, that some time our most royal predecessor David, most glorious King of Scots, fued and erected the vill of Aberdeen, with the bounds and pertinents commonly called Old Aberdeen, into an episcopal seat and city for ever," and "for the special devotion which we bear to the glorious Virgin Mary," and "for the singular love and favour" we bear "towards the reverend father in Christ, William Elphinston, present bishop and prelate of the said cathedral church, our well-beloved chancellor, keeper of our privy seal, and for his faithful and willing service," &c.; "created, made, and fued over of new as before, the aforesaid vill of Aberdeen, with the bounds and pertinents, into a city and university, and into a mere free burgh of barony for ever;" and granted likewise "to those who inhabit, or those who in time coming shall inhabit the same, full power and liberty of buying and selling within the same burgh, wines, wax, cloth, woolen and linen, broad and narrow, and other merchandise; and of having and keeping bakers, brewers, and butchers, as well of fleshes as of fishes, and other craftsmen of trades, whatever manner of way belonging to the liberty of a burgh of barony;" and also, "that in said city, university, and burgh of barony, there be bailies, serjeants, and other officers necessary for the government of the same," and "to the said reverend father, and his successors in office, bishops of Aberdeen, full power and liberty of choosing, appointing, and ordaining, yearly, the said provost, and bailies, serjeants, and other officers necessary, and inputting and removing the said persons to and from their respective offices as they shall find expedient, and they shall have a cross and mercate place at the same, and the mercate every Monday, and public fairs every year for ever, viz. one on the Supper of our Lord, before Pasch, commonly called Sheir Thursday's fair, another on the day of St. Luke the Evangelist, throughout the whole eight days, with all emoluments, liberties, and privileges belonging, or which justly do belong to Luke's fair, and to a free burgh of barony, and to a city and university, all manner of way, &c."

Œrem's History, p. 46.

Chartulary of King's College, Aberdeen.

This charter was confirmed in Parliament, 20th May 1661.

The charters granted to the bishops of Aberdeen contained extensive grants of lands and teinds; but we have not seen any grants of lands to the community of Old Aberdeen.

The customs of the town and a piece of ground called the Loch, from its formerly having been covered with water, belonged to the bishops. In 1601, James VI., as coming in the place of the bishops, upon the abolition of Episcopacy, granted a feu of the loch and customs, for payment of 6*s.* 8*d.* yearly, to Thomas Gairden, of Blairtown. In 1630, James Cruikshanks, merchant in Aberdeen, comprised the loch and customs, from Robert, the son of Thomas Gairden, and in 1647, disponed them to the provost, bailies, and community of Old Aberdeen, and their successors, for 350 merks Scots, paid to him by the magistrates, for themselves, and in name and behalf of the citizens of the said town. It appears that the magistrates had themselves advanced the 350 merks, for on the 6th January, 1655, upon the narrative that they had been relieved of the foresaid sum for the loch and customs, they disponed from them, their heirs, executors, or assigns, to and in favour of the city of Old Aberdeen, council, and community thereof, the loch and haill customs, firlots, pecks, and other measures, and brew customs thereof, to remain heritably for ever with the said town: and the bishop, Patrick Scougal, as superior, granted them a charter, dated 1688, May 11th, upon which they were infeft, June 22nd, that year.

Evidence, p. 54.

The importance of Old Aberdeen depends now entirely upon its university. It is a place of no trade, and has very little property. There are 64 inhabitants of the burgh, whose rents are £10 and upwards, and 94 whose rents are £5 and under £10; 58 of whom are burgesses.

PROPERTY.

The present Property of the town consists of a right of commonty in a moss, and a freedom hill lying north of the Don, the town house, feu duties, £310 in money, and the customs of the burgh.

OLD ABERDEEN.

Revenue.

Revenue. Evidence, pp. 27, 28.

The Revenue of the burgh, for the year ending at Michaelmas 1832, was,

	£.	s.	d.
Customs	26	0	0
Burgess entries	6	0	0
Feu duties, bear 1 boll, 1 firlot, 1 lippy, payable by fiar prices, supposed	1	5	0
Interest of money, supposed	10	0	0
Total income, about	£43	5	0

Expenditure.

Expenditure.

The Expenditure was

	£.	s.	d.
Town clerk's salary	5	0	0
Town officer	3	2	0
Feu duties of Mitchell's hospital	2	10	0
Repairs of town house	3	2	0
Insurance on ditto	1	2	6
	£14	16	6

Debt.

The burgh has no Debt.

Taxation. Evidence, p. 29.

The inhabitants assemble yearly, upon advertisement by tuck of drum, and assess themselves for the purposes of police. This assessment is laid on by commissioners appointed at the annual meetings; they act as stent masters, collectors, and administrators of the fund, from which the streets are lighted, and water has been brought into the town. The magistrates impose no taxes. All proprietors within the burgh, pay county assessments. The parish is £800 in debt, for the maintenance of the poor; and it is probable an assessment will become necessary, on that account.

Jurisdiction.

The Jurisdiction of the magistrates extends over the whole burgh, the limits of which are scarcely known, being very ill defined. It is a very general opinion in Old Aberdeen, that it should be united under one jurisdiction with Aberdeen, under the conditions stated in the Report upon that city.

See Report of Aberdeen, p. 19.

The magistrates have the usual jurisdiction of the magistrates of burghs of barony, who were independent of the superior before the date of the jurisdiction Act; their jurisdiction is very seldom exercised; they have had not above two civil cases in any one year, for many years. Their criminal jurisdiction is limited in practice to the cognizance of petty delinquencies and riots. They are in the custom of remitting persons accused of more serious offences to the Sheriff's Court.

Evidence, p. 30.

Evidence, p. 30.

The provost and magistrates act as justices of the peace.

Patronage.

The magistrates and council of Old Aberdeen have no Patronage, but of the burgh officers; they have a vote in the election of the parish schoolmaster, along with the other heritors of the parish.

Exclusive Privilege.

There are seven incorporated crafts in Old Aberdeen;—hammermen, weavers, tailors, wrights and coopers; bakers and brewers, fleshers and fishers, and shoemakers. Each of them enjoys the Exclusive Privilege of exercising their craft within the burgh, except the weavers. They elect their own deacons, and also a deacon convener, whose court is formed by delegates from all the incorporations. The incorporated trades are possessed of considerable funds, from which pecuniary relief is afforded to their indigent members, widows, and orphans. The sums distributed in Old Aberdeen, yearly, from the funds of the trades, and other charitable funds, amount to about £600.

Evidence, p. 115.

The number of members, of all the trades, is 120; there are only 15 of them exercising their respective crafts. The incorporations of Old Aberdeen, seem to be decaying.

Evidence, pp. 33, 34.

The fees of entry to each of the incorporations, for a stranger, are about £8, and £3 to the convener court. The intrant must, besides, take a burgess ticket, the expense of which is, £2 17*s.* 6*d.* Many of the tradesmen, prefer taking a merchant burgess ticket, as more respectable, which costs £5 7*s.* 10*d.* There appears to be no guildry in Old Aberdeen, though there is a distinction between the merchant and trades burgesses.

Evidence, pp. 33, 129, 126.

It is the general opinion in Old Aberdeen, that the exclusive privileges of the trades should be done away; only one individual of the parties examined was of a different opinion.

Election of Magistrates and Council.

When episcopacy was abolished in Scotland, the superiority of Old Aberdeen, and the right of appointing Magistrates, fell to the crown, as coming in place of the bishop. But the Council seem to have been allowed to elect themselves, the same as in royal burghs. During the rebellion, in 1715, no council was elected, nor for some years afterwards. In 1719, a royal Commission was issued, naming certain persons magistrates, all of whom, but one, accepted, and they chose their own council on the 1st of June, of that year; and, on the 2nd of October of the same year there was an election of councillors and magistrates for the year to come. In 1723, the town had again become disfranchised, through failure to elect a council, it is believed; and a nomination of magistrates and council was made by a warrant of the Privy Council, which authorized them to elect their successors in office in future; and this has been

OLD ABERDEEN.

Evidence, p. 27.

the practice since, down to the present time. The council, including the provost, four bailies, and a treasurer, consists of 19 members. There are 12 merchant and five trades councillors.

The number of councillors and magistrates in this burgh is too great. If it is not to be joined to Aberdeen, and is to continue a separate burgh, their number should be much reduced.

Police.

There are no special provisions for maintaining the Police of the burgh, and none appear necessary.

There is no proper gaol in the burgh. There is a lock-up-room in the townhouse, which is all that appears necessary.

Charitable Funds.

Besides having charge of the burgh funds, the magistrates of Old Aberdeen are trustees of £2,791 13*s.* 4*d.* three per cent. consols, yielding £83 15*s.* annually, left to them by Dr. Andrew Bell, to found a school upon the Madras plan. This money is still invested in the government funds, but the magistrates have feued a piece of ground for building a school, and are about to fulfil the purpose of Dr. Bell's bequest.

The provost and senior bailie are also joint trustees with the principal of King's College, the convener of the trades, and others for Mitchell's hospital, endowed in 1801, for lodging, clothing, and maintaining five widows, and five unmarried daughters of merchant and trades burgesses of the burgh.

The evidence regarding Old Aberdeen is included in that which accompanies the Report of the city of Aberdeen.

JAMES CAMPBELL.

REPORT

ON

THE TOWN OF AIRDRIE.

(LANARKSHIRE.)

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AIRDRIE.

Rise of the Town.

THE town of Airdrie is situated in the parish of New Monkland and county of Lanark. About a century ago, it is said to have consisted of little more than a solitary farm-house, and it is now a large and populous town. It owes its origin to the proximity of various iron works and collieries, and its rise has been most rapid. The Monkland Canal, communicating with Glasgow, passes the town. There is a great deal of weaving in it for the Glasgow manufacturers. The town is on the line of the principal road between Edinburgh and Glasgow, and is distant from the latter city about 11 miles. It is well built, on a regular plan. The population is about 6,000.

Charter.

In 1821, this town was erected into a free and independent burgh of barony by Act of Parliament, 1st and 2nd George IV., cap. 60. The Act also embraced regulations for the police, and paving, lighting, cleaning, and improving of the town.

By this Act, the magistracy consisted of a provost, three bailies, a treasurer, and twelve councillors, to be chosen at the first election under the Act, by and out of persons who had subscribed at least two guineas towards the expenses incurred in the erection of the town into a burgh of barony. It was also required that the provost, bailies, and treasurer should possess property within the burgh to the amount of £20 sterling of yearly rent, or occupy a dwelling-house of £10 of yearly rent. Both magistrates and councillors, it was required, should be resident within the burgh, with the exception of the provost, in whose case non-qualification and non-residence were dispensed with, if he was a justice of the peace in the county of Lanark.

In all future elections after the first, the bailies and treasurer were only eligible from among the magistrates and council of the preceding year, and the councillors out of burgesses resident within the limits of the burgh for at least two years previous to their election. The fee for being admitted burgess after the first election was fixed at three guineas.

On the expiration of 20 years from the passing of the Act, the qualification of the magistrates and office bearers was raised as to property from £20 to £30, and as to tenancy, from £10 to £15.

At the second election, and in each succeeding election, an entirely new council was to be chosen by the burgesses, with the exception of one of the bailies, who, it was provided, should continue in office for two years—the bailie remaining two years in office being the one who had the greatest number of votes when elected.

Disputes as to the right of voting, or of being elected, were to be decided in the first instance by the magistrates in office during the preceding year, with a right of appeal therefrom to the Professor of Civil Law in Glasgow, or to the First Clerk of the city of Glasgow, whose decision should be final.

The town clerk was to be annually appointed by the proprietor of the estate of Rochsolloch and Airdrie for the time being, but to be under the direction of the magistrates and council, with the power of regulating and fixing his fees.

Powers are conferred upon the magistrates and council to hold a weekly market, and two free annual fairs, "and to raise and levy at such markets and fairs such tolls, customs, or duties, not exceeding one *per centum*, upon the articles, goods, cattle, merchandise, or other things exposed to sale at such markets or fairs, as shall be agreed upon between the said magistrates and the proprietor or proprietors of the said estate for the time being;—such tolls, customs, and duties to be applied for maintaining peace and good order during such markets and fairs, or otherwise for the benefit and behoof of the said burgh of barony, and maintenance of the police."

The Act further invests the provost, bailies, councillors, treasurer, and clerk "with such and the like jurisdiction, powers, privileges, liberties, immunities, and authority within the said burgh of barony, with the like power of appointing burgesses, administering their common good, and doing all other acts and deeds needful and necessary as are held and enjoyed by, and are competent to the like magistrates and officers, by the law and practice of Scotland, in any other burgh of barony whatsoever, in that part of the United Kingdom, since the passing of the Act for abolishing heritable jurisdictions," viz. 20 Geo. II., cap. 43.

The remainder of this Act provides for the regulation of the police of the town, preventing nuisances, removing obstructions, lighting, cleaning, introducing water, paving, watching, &c. And for these purposes an annual survey is authorized to be made, by a surveyor appointed by the magistrates. And a rent-roll having been made up and fixed, the magistrates are authorized to levy an assessment on all houses, shops, warehouses, manufactories, and other buildings within the burgh, according to the boundaries described in the Act, not exceeding one shilling in the pound of the yearly rent, but one-half only of such assessment to be levied from such parts of the burgh as do not receive the benefit of watching and lighting. Houses under £2 of yearly rent are exempted.

AIRDRIE.

The amount of the assessment is to be annually fixed by the magistrates and council, after ascertaining and voting the sums of money necessary to be expended for the current year. Disputes relative to assessment and valuation are to be determined, in the first instance, by the provost and magistrates, subject to the review of the sheriff of the county.

The expense of providing a public room or place of meeting for the magistrates is allowed to be defrayed out of the assessment.

Actions against the magistrates, for any thing done in the execution of the Act, must be brought within three months. Persons aggrieved by any order or other proceeding of the magistrates, not declared final by the Act, are allowed to appeal to the first circuit court of justiciary to be held at Glasgow.

PROPERTY.

The Property of the town consists of the town-house, clock and bell, lamps and furniture. And there is a debt due to the burgh by the road trustees. The whole has been valued in the printed abstract of the burgh's accounts, at £1670 6*s*. 5½*d*.

REVENUE.

The following is an abstract of the Revenue for the year ending 15th October 1833:

	£.	*s*.	*d*.	£.	*s*.	*d*.
Customs				40	8	0
Burgh assessment				83	19	2
Police fines				11	16	0
Road money, 1832	115	7	0			
Ditto, 1833	72	18	0			
				188	5	0
				£324	8	2

DEBTS.

The burgh owes no Debt, excepting a small balance to the treasurer, and a few open accounts, not rendered.

EXPENDITURE.

The Expenditure of the year ending 15th October 1833, was as follows:

	£.	*s*.	*d*.
Cash paid Gas Company	80	0	0
Salaries	27	13	6
Officers' clothes, repairs, lamps, church seats	36	3	4
Police establishment	12	15	5½
Account for work, carting, collecting, and for repairs on streets and borders, &c.	145	6	8
Paid Mr. Watt for parish trustees	16	0	0
Loss on bill discounted	1	19	4½
	£319	18	4

The account books of the burgh were not seen by the commissioners, as the person who had the custody of them was then ill of a complaint supposed to be cholera. But the commissioners have no reason to doubt the correctness of the information they received, and as there was produced to them a printed abstract, subscribed by the provost, treasurer, and town clerk, of the funds and property of the burgh, and no complaints were stated against the administration of its affairs, they did not think it necessary to make a second visit to the town.

TAXATION.

The Taxes levied by the magistrates, under the authority of the charter, are the petty customs and assessment on rental. A table of the customs is referred to. They are drawn upon goods, produce, and live stock, exposed to sale in the streets. The assessment on rental is limited to one shilling per pound, but under the provision that not more than one-half of the assessment shall be levied from proprietors or inhabitants of such parts of the burgh as do not receive the benefit of watching and lighting. The assessment is at present only sixpence per pound.

BOUNDARIES.

The boundaries of the burgh under its charter, and as settled under the Act 2 William IV. cap. 65, are nearly identical.

JURISDICTION.

There is a bailie court held once a month. The magistrates, under their charter, entertained causes to the amount only of 40*s*., and police cases. No account of the number of cases has been kept—the establishment of the sheriff's small debt court having, it is said, almost extinguished any proceedings before the magistrates. The town clerk is considered to be the legal assessor to the magistrates.

PATRONAGE.

The magistrates appoint annually a town-officer, surveyor, and collector, to whom they pay such fees as they think proper. The town-officer has about £2, and the others £5 each. The treasurer does not find caution, as he is generally in advance for the burgh. The town clerk, though not appointed by the magistrates, has a salary of £8 8*s*.

The magistrates have also, in conjunction with a committee of the Airdrie Chapel, the management and patronage of the Town's School, the teacher of which has no salary, but depends entirely upon the school fees, which are 3*s*. per quarter for English, 4*s*. for arithmetic and writing, and 5*s*. for Latin and Greek—the number of scholars being about 120 in summer and 80 in winter. The teacher has also a free house and school, which were built by subscription, and are kept up at the expense of the town.

ELECTION OF MAGISTRATES.

The mode of Election of the Magistrates and Council, under the Act erecting the town into a burgh of barony, has been already explained. By vesting the election in the burgesses, who each paid a contribution of three guineas to the common good, a considerable sum was added

to the funds of the town, and it is a subject of regret to some persons in the town that this source of revenue is now cut off.

By the late Act 3rd and 4th William IV., cap. 77, the councillors are elected by those who possess the Parliamentary franchise. The council consists of a provost, three bailies, a treasurer, and seven councillors.

The number of persons resident within the burgh, whose rent or property amounts to £10 *per annum* or upwards, amounts to 174, of whom are burgesses 76.

The number of persons whose rent annually is £5, and under £10, is about 171, and of those 12 are burgesses.

The number of persons resident beyond the burgh, but within the Parliamentary boundaries, whose rent in property amounts to £10 *per annum* or upwards, is 15.

POLICE.

The watching and other matters connected with the Police establishment are regulated by the Act erecting the town into a burgh.

There is no separate police establishment. The town-officer, with the occasional assistance of special constables, preserves the peace.

Documents.

The following Documents accompany this Report:

1. Act erecting the town of Airdrie into a burgh of barony.
2. Table of Customs 1832-3.
3. Answers to Heads of Inquiry issued by the Commissioners.
4. Declaration of J. H. Mack, Town Clerk.
5. Abstract State of the Funds of the Burgh 1832-3.

RO. BELL.
R. HANDYSIDE.

REPORT

ON

THE BURGH OF ANNAN.

(DUMFRIESSHIRE.)

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ANNAN.

CONSTITUTION. THE subsisting charter of this burgh was granted by King James VI., on 10th July 1612. It proceeds on the recital that the old muniments of the burgh had been burned in war—that the town had been erected into a burgh by King James V., in 1538—and that that charter, and all preceding charters, were confirmed.—*Vide* Appendix to Report of Committee of House of Commons, 1793.

Sett. The Sett of the burgh was fixed by an act of the convention of burghs, on 23rd June 1712. It consists of one provost, three bailies, one dean of guild, one treasurer, and 13 councillors—in all 19. This sett was reported to the House of Commons in 1819, and there has been no alteration since.

Population and Constituency. The Population of Annan has been nearly *doubled* during the present century. By the census of 1801, the population of the burgh and parish was only 2,570, but by that of 1831, it was 5,038. The Parliamentary Constituency of Annan in 1832 consisted of 170; and in a return to the commissioners, it appears that the male persons, proprietors and tenants, who made, own, or possess tenements within the limits fixed by the Reform Act, at or above £5 per annum, but not extending to £10, are 98.

PROPERTY AND REVENUE. The Property and Revenue of this burgh are considerable, consisting, as at 15th October 1833, severally, of the following articles, viz.:

	£.	s.	d.
1. Lands rented at	53	10	0
2. Feu duties and ground annuals	182	14	8
3. Fishings	90	0	0
4. Tolls and customs	324	10	0
5. Manure	20	0	0
	£670	14	8

DEBTS. Against this property, there falls to be stated,—the following Debts due by the town, viz.:

	£.	s.	d.
1. Debt due to Mr. Forbes' heirs on bond and disposition in security, amounting to	3,000	0	0
2. To the masters of the academy	1,200	0	0
3. Claims against the burgh on open account, supposed about	300	0	0
	£4,500	0	0

The interest of these debts, at the rate at present paid, is stated in the burgh accounts to be £168 yearly.

EXPENDITURE. The Expenditure of the burgh for the year, from Michaelmas 1832, to Michaelmas 1833, stood thus:

I. ORDINARY EXPENDITURE.

	£.	s.	d.
1. Interest of debt	168	0	0
2. Supply	7	16	3
3. Missive and equi dues	2	0	0
4. Tax for clerks	1	0	0
5. Minister's stipend	7	17	4½
6. Parish schoolmaster's salary	11	11	10
7. Academy	65	0	0
8. Municipal salaries	73	18	4
9. Lighting the streets	49	9	11
10. Sweeping ditto	27	4	6
11. Subscription to infirmary	2	2	0
12. Poors' rates	21	5	0
13. Allowance for ringing church bells	0	10	6
	£437	15	8½

II. CASUAL EXPENDITURE.

1. Law expenses, paid	222	5	3
2. Public house expenses	15	0	11
3. Miscellaneous payments	56	4	0
	£731	5	10½

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ALIENATIONS OF BURGH PROPERTY.

There seems to have been very considerable Alienations by the Burgh during the last 40 years, both in the shape of sales and feus. The following is a list of these alienations returned to the Commissioners:—

"In 1796, the town's infield lands were sold, which produced £1,031 3*s.* 5*d.*, the rental on 15 years' lease being £53.

"In 1797, a debt of £102 was sold, with interest and expenses, due by John Irving, at £170.

"In 1800, the feu duty of Landbed and Birchgreen, were sold at 20 years' purchase, £23 10*s.*; also, Walls-Sykes, to Dr. Halliday, at £505.

"In 1803, the Raggetshaws, which was the lot laid off for the town, at £148 12*s.* 1*d.*; also the lands of Shaw, to Dr. Halliday at £700.

"In 1805, the lands of Swordwell were sold to provost Pool, at £1,173 7*s*,; lands at Newdyke, to Mr. Robinson, at £317; ground to Christopher Smyth, at the Moss, at £81; muir ground, Robert Thomson, at £113 8*s*.

"In 1807, Watch-Hill was sold to Thomas Blacklock, for £525.

"In 1809, Dr. Johnstone was allowed to enclose Head Rooms for £2 10*s.*; sold to provost Pool, Tom's Knoll, at £5; bailie Waugh, £5; Head Rooms, at Howgill, at £1 10*s.*; Dr. Halliday, an old road at Walls, £5.

"In 1813, feued grounds below the factory, to Colonel Douglas a Head Room, 1*s.* 6*d.* yearly, or £1 10*s*.

"In 1814, 1815, 1816, feu duties were sold to Gallabanks and others, at £1,353 0*s.* 9*d.*"

Besides these alienations, the common muir of Annan was divided among the town and country heritors, who had been in use to exercise a right of *servitude* over it, in virtue of their tenements, either within or beyond the burgh. At this division, however, a burden of £200 per annum was created in favour of the magistrates, for behoof of the community, which was appropriated to secure the sum of £1,000 sterling, raised for building an academy, and £50 yearly for the teacher's salary, and £30 more, yearly, on the death of the parish schoolmaster. The division of this common was made, apparently, on fair principles, as the proprietors within and without the burgh were placed on the same footing, and acquiesced in the proceeding.

As to the other alienations, the following remarks occur:—

The feu duties, which are stated to have been of the nature rather of ground annuals than proper feu duties, were disposed of at 20 years' purchase, which, in the years prior to 1816, when the feu duties in question were sold, was notoriously as high a rate, as could in general be obtained in the money market, for such rights.

The sales of land, again, are stated to have been all made by *public roup;* but it is deserving of remark, that one of the most valuable properties in the burgh was purchased in that manner by provost Pool, while he was *a member* of the council. The propriety of such a transaction may well be questioned.

The sums realized in all these sales, within the last 40 years, are upwards of £6,000; and as there is still a considerable debt due by the town, an inquiry was instituted into the appropriation of the prices thus got for the common property. In answer, it was stated, that these prices were applied, generally, in payment of the expense of undertakings of great importance to the burgh, viz. in building bridges, erecting a church steeple, rebuilding the manse, erecting a market place and shambles, and in a large subscription for the new Carlisle road, passing through the property of the burgh. The propriety of expending the public funds of the burgh for these purposes, cannot well be questioned.

Questionable Charges paid by Magistrates out of the Common Good.

But the funds of the burgh have been burdened with very large debts of another description, much more doubtful. In particular, a considerable time ago, a debtor was imprisoned in the gaol of Annan, to whom the provost and magistrates for the time, gave extraordinary indulgence, by allowing him the freedom of the different apartments in the prison, and even permitting him (as he was sheriff of the county) to hold courts in the town house within the gaol. Both the Court of Session, and the House of Peers, held these indulgences to be illegal, and subjected the magistrates in the debt, as for *an escape.* That debt, and the expense attending it, appear to have been upwards of £2,000, *and the whole of it has been paid out of the common good of the burgh.* Within these few years, also, *another* debtor escaped, and his debt with costs, amounting in all to about £1,200, was paid out of the funds of the burgh, or by money borrowed on the credit of the common good. In short, these sums, with interest, are very nearly equal in amount to the whole debt with which the town is still burdened.

But there seems to be no authority for holding, that the magistrates were entitled to escape from personal liability in this way. The law may be hard or inexpedient, and deserving of alteration. But as it stands, the magistrates were subjected for the debts in question as *for delicts,* and therefore, it is apprehended, they were not entitled to burden or alienate the common good, to pay a debt arising from their own wrong. Nevertheless, as the burgh law stood at the date of the proceeding, there was no party out of the council, who could bring these charges of the magistrates upon the common good, under challenge, in any easy and available form. It will remain for consideration with those who have the future management of the burgh whether it be now possible for the community to get any redress whatever in these matters.

But a still more improper application of the funds of this burgh, has been lately brought under the notice of the Commissioners. It appears, that in the year 1830, an action of damages was raised by one James Richardson, shoemaker, in Cummertrees, against John Irving, then provost, Thomas Williamson, senior bailie of Annan, and George Dalgleish, procurator-fiscal of the burgh, for alleged oppression, injury, and damage suffered by the

ANNAN.

pursuer from wrongous imprisonment by these defenders. They first pleaded, that they were acting as magistrates, and were protected by the statutes, whereby magistrates acting *bonâ fide* in the execution of their duty, are exempted from damage; but this defence was repelled by the Lord Ordinary and Inner House of the Court of Session.—See Mr. Shaw's Reports, 1st June 1832.

The case was afterwards set down to be tried by a jury, when the magistrates made a compromise in the matter, and agreed to pay £40 for damages, and £75 for expenses. These two sums, as well as all their own expenses in the suit, the late magistrates paid out *of the funds of the burgh*. This, of course, was a most illegal and unwarrantable appropriation of the funds of the community, and it has justly excited the disapprobation of a considerable part of the public at Annan, and they have consulted counsel as to the measures to be adopted for getting redress. It is manifest, from such abuse, that a speedy and economical procedure should be authorized for protecting burghs against such gross misapplications of the common funds.

TAXATION.

The Taxations on this burgh are peculiarly light, with the exception of the assessment for *the poor*. In fact, no taxes whatever of any description are levied by the magistrates, except poor's-money. The watching, cleaning, and lighting of the town are defrayed out of the ordinary revenue of the town.

The assessment for the poor, however, has certainly increased very rapidly of late. From 1823 till 1826 it was, on an average, less than £250; but for the year from 1832 to 1833, it was £543 16*s*. 9*d*. It will be observed, however, that this was the assessment both for town and parish; and the real rent of the two combined, as assessed in 1815, the last year of the property tax, was £12,800 *per annum*.

The real rent of the old royalty of the burgh of Annan, is stated to be now about £11,861 *per annum*; and the real rent of that part of the burgal territory within the parliamentary bounds is about £8,000 *per annum*.

EXTENT AND BOUNDARIES OF THE BURGH.

The ancient royalty of Annan extends over a considerable territory, and comprehends a large landed district. The town clerk describes it as being nearly five miles in length; and within these Bounds the properties generally *hold burgage*.

The effect of the parliamentary line has been greatly to limit the burgh, as the ancient royalty not only comprehended the whole of the district within the parliamentary line, but greatly more, consequently there is no question here as to the junction of suburban districts; but due provision must be made to enable the magistrates to continue to enter the proprietors of property held burgage in the same manner as if their subjects still formed parts of the burgh.

JURISDICTION.

The Jurisdiction which the magistrates of Annan have been of late called upon to exercise, seems to be very trifling, and is gradually diminishing. In 1820 there were 67 causes, and in 1821 60 causes before the burgh court; but in 1832 there were only 34, of which, at least, *one-half* were cases in *absence*. The criminal jurisdiction has been confined chiefly to brawls and petty assaults.

There is much room for improvement with regard to the gaol. The gaoler does not reside within the walls of the gaol; and although the principal gaoler is said to reside near the gaol, the under gaoler, or turnkey, lives at some distance. All the criminal prisoners are placed in the same apartment, without any attention to classification, though the space within the walls of the gaol, if properly repaired and fitted up, appears to admit of a separation, and some classification of the prisoners.

PATRONAGE.

The magistrates and council of Annan have no Patronage, except the appointment of their own clerk, collectors, billet master, gaoler, the allowances to whom seem reasonable and moderate. The salary of the town clerk is only £3 6*s*. 8*d*.

This burgh has no church patronage, as Mr. Hope Johnstone is patron of the parish.

EXCLUSIVE PRIVILEGES.

There is no guild here, and there are no incorporated trades with Exclusive Privileges in Annan, and no qualification has been enforced, to entitle any one to manufacture or trade within the bounds of the burgh. The magistrates issue burgess tickets, both to ordinary and honorary burgesses, but they exact no fees of entry, except the stamp duty of the ticket.

HARBOUR.

The accommodations of the Harbour of Annan have been considerably improved of late, and the trade is said to be on the increase. In 1833 there were 33 vessels, measuring in all 2,264 tons, belonging to the port. And in the year from October 1832 to October 1833, there were 532 vessels entered inwards, and 131 cleared outwards at the port; besides five foreign vessels, chiefly loaded with timber.

SCHOOLS.

The academy and parochial Schools, with the private schools taught in the town, are stated to afford full means of education in every branch, and at easy rates, to the children of all classes. The three teachers of the academy receive £50 yearly from the town, the rector having a salary of £20, the other two masters £15 yearly each. The parochial schoolmaster receives £11 11*s*. 10*d*. of his salary from the town.

SUGGESTIONS MADE TO COMMISSIONERS.

In reference to any contemplated changes in the burgh law of Scotland, the following Suggestions have been made to the Commissioners:

1. It was stated to be very inconvenient, and somewhat hazardous to the titles of parties holding properties beyond the parliamentary line, but within the old royalty, to exclude them from the jurisdiction of the burgh; and considerable anxiety was expressed that the magistrates should be authorized either to enter the proprietors as formerly, or to give them feu charters for elusory feu duties. It was added that the proprietors and community generally within the old royalty, would prefer continuing within that jurisdiction.

ANNAN.

2. It was stated that the accommodations on the river at the port of Annan were insufficient, and admitted of great improvement. The proper mode of obtaining a fund for effecting any improvements of the port is by a reasonable tonnage, and it was said that if the power of levying such a tonnage were committed to a society composed of the shipowners and merchants, it would give general satisfaction to the whole community.

(N.B. A similar suggestion was made to the Reporter at Kirkcudbright.)

3. In reference to the harbour of Annan, it was further stated to be desirable that the magistrates should have a certain limited jurisdiction in admiralty matters, to enable them to check petty delinquencies at the harbour, and on board of vessels. The want of an admiralty jurisdiction is also said to be felt in disputes between shipmasters and seamen about their wages, and when debtors *in meditatione fugæ*, are about to sail from the port.

Lastly. It was suggested as desirable, that there should be a summary jurisdiction vested in the magistrates for the trial of small debt causes, if the sheriff is not required to hold circuit courts in this and in other places in the county for the trial of such cases.

Generally this burgh may be reported as in a highly prosperous condition. The streets appear to be commodious and well-kept, and the houses and shops indicate the comfort and affluence of the community, while the population of the burgh and parish has been more than doubled since 1801.

Documents.

The following Documents accompany this Report, viz.

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Return showing the Alienations by the Burgh of Annan from 1707 to 1818.
3. Additional Answers to the Inquiries of the Commissioners, dated 5th October 1833.
4. Evidence taken at Annan, 25th September 1833.
5. Declaration of Mr. J. Little, relative to Richardson's Case, before the Commissioners at Edinburgh, 19th February 1834.
6. Printed Copy of Proceedings in Richardson's Case.
7. Opinion of Counsel thereon.
8. Letter of Town Clerks, relative to it, 22d February 1834.
9. State of Annual Accounts, and List of Electors at, 15th October 1833.
10. Letter, the Town Clerks to the Secretary of the Commission, 21st October 1833.
11. Letter, Provost Nelson to Ditto, 6th August 1834.
12. Copy, Report by Committee of Council as to Burgh Inquiry, 1834.

JOHN CUNINGHAME.

REPORT

ON

THE BURGH OF ANSTRUTHER EASTER.

(FIFESHIRE.)

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ANSTRUTHER EASTER.

ANSTRUTHER EASTER was erected into a royal burgh by a charter of James VI., dated 18th December 1583. It does not hold burgage of the crown, but feu of the family of Anstruther. It is situated on the north side of the Firth of Forth, and has a good small harbour, where there is a custom-house. There are a few vessels belonging to the port, and there is some trade carried on with London, and along the coast. The principal articles of export are grain and potatoes. It does not appear ever to have been a place of much trade, according to a return made to the Commissioners of Appeals, by Mr. Tucker, in 1656. The shipping then belonging to the town consisted of 10 vessels, in all 235 tons burden. CHARTER. Returns to Parliament, 1793. Report by Thomas Tucker, p. 32.

Anstruther Easter is joined by Anstruther Wester on the west, and by Kilrenny on the east. The three burghs form one narrow town, lying along the margin of the Firth.

Anstruther Easter contains in the town and parish, according to the census 1831, a Population of 1,007, and 184 inhabited houses, being seven houses less since census 1821. The number of houses, rented at £10 and upwards, is 55, according to a special return made to the burgh boundary Commissioners. POPULATION.

By a return now made by the town clerk, the number of persons resident within the proper bounds of the burgh, whose rents amount to £10 and upwards, is 63, of whom 31 are burgesses. The number of parliamentary voters enrolled is 47.

The number of persons resident within the burgh, whose rents amount to £5 per annum and upwards, but do not amount to £10, is 54, of whom 16 are burgesses.

There are no persons resident beyond the proper bounds of the burgh, but within the parliamentary boundary, whose rents amount to £5.

Anstruther Easter was at one time possessed of some lands lying near to King's Barns. The magistrates engaged in a law suit with Sir John Anstruther, about the right of the street dung; and sold their lands about the year 1770 for £500 to pay the cost of the action. The same lands have been sold since for £5,000. PROPERTY.

The present property of this burgh consists of the harbour, town-house, and vacant ground within the town, with the customs, shore or harbour dues, shambles, fish-yard, and shipbuilding ground, and wood yard, and the feu duties of two houses in the town.

The Revenue of the town is entirely derived from the above sources, and is variable; for the year ending at Michaelmas 1832, it was £78 3*s.* The revenue of the burgh in 1788, was £37 8*s.* 6*d.* according to a return made to the House of Commons in 1789. REVENUE. Production, No. 1, pp. 2 and 3. See also Account for 1832-3.

The Expenditure of the burgh, for the year 1832, was £93 8*s.* 1*d.* EXPENDITURE. Appendix, No. 1.

The revenue of the town has fallen off considerably since 1827. By the return made to Parliament for that year, the customs and shore dues amounted, by the rental, to £115, and the whole appear to have been received. In the year ending Michaelmas 1832, they produced only £60.

The Debt due by the town amounted at Michaelmas 1832, to £485 0*s.* 2*d.*, besides a debt due to Mr. Darsie, for repairing streets, &c. DEBT.

The debts due to the burgh, arising from arrears of shore dues, &c., amount to £215, but the greater part is irrecoverable.

There has not been sufficient attention to economy in managing the affairs of this burgh. The magistrates and council have been in the habit of employing the same person for several years to perform repairs on the harbours and streets, to whom there are considerable sums charged yearly. During the greater number of these years, this person was a member of council: no estimates of the expense of executing the repairs were taken before ordering the work to be executed, nor was any opportunity afforded to others to compete with him; and there seems to have been no sufficient check upon his charges. ADMINISTRATION. Productions, No. 1.

In the year 1828, £17 14*s.* 7*d.*, is charged in the town accounts; in 1829, £16 4*s.* 7*d.*, and in other years smaller sums for tavern entertainments; although the small income of the town is scarcely sufficient to keep in repair the harbour and the streets of the town, to the cleaning of which sufficient attention is not paid, and improvement in this respect is essential to the comfort of the inhabitants.

In the account of debts for 1828, returned to Parliament, there is this entry:—"To the heirs of Major Grey, for making the road or access to the harbour, and for repayment of which 14 years of the statute labour of householders within the burgh has been assigned." This statute labour money has been received annually since the date of the grant; but in place of being applied to the purposes of the grant, it has been applied to the general purposes of the town. The explanation given by the treasurer of the town of this matter is not satisfactory. He says the council was not bound to pay the interest due to Major Grey's

ANSTRUTHER EASTER.

heirs, out of the road money, "as their security was not confined to that fund, but generally against the property of the burgh;" but the road trustees assigned the statute labour money to the burgh for a certain purpose, and the magistrates have applied it otherwise.

HARBOUR.

A survey of the Harbour, and a calculation have been made by Mr. Stevenson, engineer, by which, at the expense of £2000, the harbour might be improved, so as to receive vessels drawing six feet water at low water: but the funds of the town are not adequate to meet such an expense.

TAXATION.

The magistrates levy no taxes, except the cess due to government, and the customs and shore dues already mentioned. The amount of cess collected has varied during the last 10 years from £17 16*s.* 10½*d.* to £20 4*s.* ½*d.* The cess paid to government, and missive dues paid to the convention of royal burghs, vary from £9 4*s.* 11*d.* to £9 10*s.*; and the expense of collection from £6 11*s.* 7*d.* to £8 16*s.* 2½*d.* annually. There is besides a charge of £2 for Commissioners to the convention of royal burghs annually.

There is no authority for levying the expenses of the Commissioners sent to the convention, from the inhabitants of the burgh. The expense of collection appears to be too great.

JURISDICTION.

The magistrates of Anstruther Easter have the usual Jurisdiction of magistrates of royal burghs within the royalty, but it is very little exercised. There have been no civil causes tried in the Bailie Court, which is the only court held within the burgh, since the year 1820; and in all only 12 criminal cases, being petty thefts, assaults, and other breaches of the peace, have been tried during the same period. The town clerk acts as assessor to the magistrates, and his appointment is during the pleasure of the magistrates and council.

PATRONAGE.

The magistrates have the appointment of the town clerk, burgh schoolmaster, procurator fiscal, and town officer.

The English, Greek, and Latin languages, arithmetic, book-keeping, geography, and geometry, are taught in the burgh school, for very moderate fees, which are regulated by the magistrates.

The magistrates and council have no church patronage, nor any other patronage but that already mentioned.

EXCLUSIVE PRIVILEGE.

The burgesses of Anstruther Easter enjoy no Exclusive Privilege of trade within the town, and there are no incorporated trades or crafts enjoying exclusive privileges in this burgh.

ELECTION OF MAGISTRATES AND COUNCIL.

Report Committee House of Commons, 1793, p. 52.

The council of Anstruther Easter consists of 19 members, including three bailies and a treasurer. Prior to the date of the 3 and 4 Will. IV., the old council nominated four new councillors, and annually put off four of the old, the eleven remaining councillors not magistrates, continued without change. The four magistrates were elected by the whole burgesses out of a leet of nine persons for the bailies, given by the three bailies, of which number they were always three; and out of a leet of three persons for the treasurer, given by himself, and of which he was always one. The councillors are now elected according to the provisions of the 3 and 4 Will. IV. Their number is much too great.

POLICE.

There is no special provision for the maintenance of the Police of the town.

It is not lighted, and is ill-cleaned. A single town's officer takes charge of the peace of the town, and his time is not exclusively devoted to that object.

There is no proper gaol in the burgh.

Documents.

The following Documents accompany this Report:

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Information regarding the Accounts of Anstruther Easter 1833.
3. Account of Treasurer's Intromissions with the funds, from 14th September 1826, to 14th September 1827.
4. Ditto ditto ditto, from 14th September 1827, to 14th September 1828.
5. Evidence taken at Anstruther Easter, 30th October 1833.
6. Copy Report of Road Trustees, May 10, 1828.
7. Eight Accounts between Conolly and Smith and the Town of Anstruther, including the Road Money Accounts.
8. Evidence of Andrew Clephane, Esq., Sheriff of the County of Fife.

JAMES CAMPBELL.

APPENDIX TO REPORT

ON

THE BURGH OF ANSTRUTHER EASTER.

STATE of the PROPERTY, REVENUE, and DEBTS due to and by the BURGH of ANSTRUTHER EASTER, and ABSTRACT of the Annual INCOME and EXPENDITURE, from the 14th September 1832 to the 15th October 1833.

1. Property.

The Property of the Burgh consists of—

1. Town-house, kirk, and kirk-yard, whole vacant ground, vennels loans, &c., as specified in town charter, shore dues, customs, sea-ware, and street dung.
2. Manse and offices.
3. School and school-house.
4. Fish-yard.
5. Ship-building ground.
6. Feu duty of house on the Brae, and of the house belonging to the heirs of the late James Wilson.

2. Debts due to the Burgh.

	£.	s.	d.
Amount thereof, as at 15th October 1833	215	0	0

The greater part supposed to be irrecoverable.

3. Debts due by the Burgh.

	£.	s.	d.
Amount thereof, as at 15th instant, by bonds, &c.	470	0	0
Open accounts	15	0	0
	£485	0	0

4. Revenue.

	£.	s.	d.
The revenue varies; for the last year it was as under:			
Customs and shore dues	68	10	0
Wood-yard	3	0	0
Ship-building ground	5	0	0
Fish-yard	10	15	0
Feu duties	0	3	0
	£87	8	0

5. Expenditure.

	£.	s.	d.
The expenditure also varies; the amount for the last year, as per Abstract, was	65	19	7

6. Abstract State of Intromissions of the Treasurer, with the Funds of the Burgh, from 14th September 1832 to 15th October 1833.

Dr.	£.	s.	d.
Balance from last year's accounts	12	15	6
Rents collected	59	0	0
Miscellaneous	0	9	8
	£72	5	2

Cr.	£.	s.	d.
Salaries and public burdens	17	2	8
Interest on debts	8	10	0
Repairs, improvements, &c.	29	1	6
Miscellaneous	11	5	5
Balance in treasurer's hands	6	5	7
	£72	5	2

REPORT

ON

THE BURGH OF ANSTRUTHER WESTER.

(FIFESHIRE.)

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ANSTRUTHER WESTER.

CHARTER. Returns to Parliament, 1793.

ANSTRUTHER WESTER appears to have been created a royal burgh by a charter granted by King James VI. dated 21st October 1587. It is a very small burgh, separated from Anstruther Easter by a rivulet called the Drill Burn. It can never have been a place of considerable trade, as its harbour is small and inconvenient. At present it has scarcely any trade, the whole customs, shore dues, and anchorages of the town, for the year 1833, amounted to £1 16*s.* only; which is a greater sum than they usually amount to. In 1827 they produced 4*s.* 6*d.*, in 1828, 3*s.*, in 1829, 3*s.* 4*d.*, in 1830, 4*s.* 3*d.*, and in 1831, £1 1*s.*

POPULATION.

The Population of the burgh and parish was by census 1831, 430. The number of houses is 65, and the number of houses rented at £10 and upwards, by a Special Report made to the Burgh Boundary Commissioners, was 24.

By a Return now made by the town-clerk, the number of persons within the burgh, whose rents amount to £10 and upwards, are 24. Of these, 12 are burgesses. The number of parliamentary voters enrolled, is 14.

The number of persons whose rents amount to £5 per annum or upwards, but do not amount to £10, is 12. Of these, three are burgesses.

Productions, No. 1, p. 14.

There are no persons dwelling between the proper bounds of the burgh and parliamentary boundary, whose rents amount to £5.

PROPERTY.

The Property of the burgh consists of the town's common, the town house, vacant ground within the town, the old school-house of the burgh, the customs, anchorage, and shore dues, and teinds of the white fish and herrings brought to the harbour; the iron-stone and sea-ware upon the sea-shore, from the march with the town of Anstruther Easter to the march with the town of Pittenweem; and £217 4*s.* 3*d.* due to the burgh upon bonds and bills, arrears of feu duty, rents, &c.

See Productions, No. 1, p. 2 and 3.

REVENUE. Appendix, No. 1.

The Revenue of the burgh for the year ending at Michaelmas 1832, was £69 10*s.*

EXPENDITURE.

The Expenditure was £79 5*s.* 7*d.* The excess of expenditure was met from a balance in the treasurer's hands from the previous years, more than equal to it.

DEBT.

There is no Debt due by the burgh.

ADMINISTRATION.

The magistrates, it appears from the Return made to the House of Commons, under the order of 13th July 1832, have been in the practice of expending in entertainments annually, sums which are large, in proportion to the revenue of the burgh. In 1827, the charge for entertainments to the council is £9 3*s.* 3*d.*, in 1828, £8 5*s.* 3*d.*, in 1829, £4 17*s.* 6*d.*, in 1830, £11 11*s.* 6*d.*, and in 1831 it is £9 1*s.*

Productions, Nos. 4, 5, 6.

A memorial has been presented to the Commissioners by the resident burgesses of Anstruther Wester, not including a majority of the present town council, complaining of the maladministration of the burgh affairs. A copy of that memorial was transmitted to the magistrates, and they have given in an answer to it; both of them will be found amongst the papers accompanying this Report.

TAXATION.

The magistrates have not been in the practice of levying any taxes, except the customs, anchorage, and shore-dues, and the cess payable to Government. The average sum levied as cess for each of the last 10 years, has been £6 10*s.*, and the sum paid annually to Government is £3 18*s.* The missive dues to the convention of royal burghs, and the expenses of the commissioners from the burgh to the convention being £2 2*s.* annually, are paid out of the common good of the burgh. The residue of the money levied in name of cess, is accounted for by the expense of assessment and collection, and by assessments irrecoverable.

JURISDICTION.

The magistrates possess the usual Jurisdiction competent to magistrates of royal burghs, within the royalty. The only court held within the burgh is the Bailie Court. There do not appear to have been any civil actions brought into it during the last 10 years. There have been nine criminal prosecutions for assault and other breaches of the peace within the last 13 years. The town clerk acts as assessor to the magistrates. His appointment is during the pleasure of the council.

PATRONAGE.

The only Patronage the magistrates and council of Anstruther Wester have, is of the offices of town clerk, procurator fiscal, and town officer.

Parliamentary Return, p. 86.

The magistrates and minister of Anstruther Wester have the presentation of a bursar to the United College of St. Andrews. This bursary was endowed by the late Bailie Thomson: its funds amount to £550, and are lent to the United College of St. Andrews, who at present pay four per cent. interest annually to the use of the bursar. Bailie Thomson also left £200 in trust to the magistrates, the interest to be paid one half to the parish school-

ANSTRUTHER WESTER.

master, and one half to the poor of the parish. This sum is lent on bond to the road-trustees of the county of Fife.

There is no burgh school, but the parish school is situated within the burgh, in which, besides the ordinary branches of education usually received in parish schools, mensuration, land-surveying, plain trigonometry, and navigation are taught.

EXCLUSIVE PRIVILEGES.

There is no guildry, and there are no incorporated trades, enjoying Exclusive Privileges, within the burgh.

ELECTION OF MAGISTRATES AND COUNCIL.

This burgh is in Schedule F. of the statute 3 and 4 William IV. The affairs of the burgh are managed by a council of 15, including three bailies and a treasurer. The old council choose the new, and may continue themselves for any length of time in office. The new

Productions, No. 7.

council choose the bailies and treasurer from leets, and may re-elect the same persons for any length of time, by the practice of the burgh.

The number of the council is too great.

Productions, No. 3.

It has been complained to the Commissioners by seven of the late councillors of the burgh, that the last election of the council was swayed by the prevailing interest of one family, and carried by the casting vote of the chief resident magistrate, who is in the interest of that family; and they pray that the election of councillors may be thrown open to £10 or £5 householders.

POLICE.

There is no special provision for the Police of the town. A single town officer forms the whole police establishment, and his time is not exclusively employed in the duties of his office. The town is not lighted, and it is badly cleaned.

Documents.

The following Documents accompany this Report:

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Accounts of Burgh, 1831-2.
3. „ 1832-3.
4. Memorial for Seven of the late Councillors of the Burgh.
5. Memorial for the Burgesses, 22nd November 1833.
6. Answers for Bailie James Young to said Memorial, December 1833.
7. Objections for the Burgh to the proposed Union with the Burghs of Anstruther Easter and Kilrenny.
8. Memorial for the Burgesses, 28th January 1834.
9. Copy Minutes of Election of Magistrates and Council, September 1830.
10. Copy Sett of the Burgh.

JAMES CAMPBELL.

APPENDIX TO REPORT

ON

THE BURGH OF ANSTRUTHER WESTER.

STATE of the PROPERTY, REVENUE, and DEBTS due to and by the Burgh of ANSTRUTHER WESTER, and ABSTRACT of the Annual INCOME and EXPENDITURE from the 18th September 1832 to the 15th October 1833:

1. Property.

The Property of the Burgh consists of:

1. The East Common, the West Common, the West Muir, the two Millton Muirs, the Burns, and the Billowness.
2. The town-house, with the whole vacant grounds, vennels, &c. within burgh, the old schoolhouse of the burgh, and also the customs, anchorages, and shore dues and teinds of white fish and herrings at the harbour of Anstruther Wester.
3. Feu duties of certain subjects in and near the burgh.
4. The sea-shore from the middle of the burn, which separates Anstruther Easter from Anstruther Wester, to the march with the town of Pittenween, including the stones, sand, and sea-weed, as well what grows on the rocks as what is driven ashore; and every thing else on the sea-shore.

2. Debts due to the Burgh.

	£.	s.	d.
Amount thereof at 15th October 1833	217	4	3

3. Debts due by the Burgh.

There are no debts due by the burgh, except some small open accounts.

4. Revenue.

The revenue varies; for the last year it was as under:	£.	s.	d.
Customs and shore-dues	1	16	0
Rents of lands, &c.	39	7	6
Price of oats sold on the burgh's account	19	16	0
Miscellaneous Income	0	4	1
	£61	3	7

5. Expenditure.

	£.	s.	d.
The expenditure also varies; the amount for the last year, per abstract, was	73	16	3

6. Abstract State of Intromissions of the Treasurer with the Funds of the Burgh, from 18th September 1832 to 15th October 1833.

Dr.	£.	s.	d.
Balance from last year's Account	45	19	4
Rents collected	35	7	6
Price of oats sold	19	16	0
Miscellaneous	2	1	1
	£103	3	11

Cr.	£.	s.	d.
Salaries and public burdens	9	18	0
Interest on mortified funds in town's hands	8	0	0
Repairs, improvements, &c.	27	1	9
Miscellaneous	28	16	6
Balance in treasurer's hands	29	7	8
	£103	3	11

REPORT

ON

THE BURGH OF AUCHTERMUCHTY.

(FIFESHIRE.)

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AUCHTERMUCHTY.

AUCHTERMUCHTY is a royal burgh, situated in the county of Fife. Wishing, it is believed, to avoid expense, it had not exercised the privilege of sending a Member to Parliament for a considerable time before the union of England and Scotland, and was, in consequence, not included in the classes of burghs which jointly sent Representatives to the British Parliament prior to the date of 1 and 2 Will. IV. HISTORY.

Since the date of the 1 and 2 Will. IV. parties qualified in terms of it, resident within the burgh, have voted in the election of a representative in Parliament for the county of Fife.

Auchtermuchty was erected into a royal burgh by a Charter of King James V., dated 25th May, 1517. By a charter granted by King James VI., dated 28th October 1595, the grants contained in the former charter were confirmed, and power was given to the bailies and councillors to receive into the burgh bakers, brewers, and all other artificers necessary and belonging to the freedom of a free burgh, &c.

The Population of the burgh and suburbs is 2,400. The number of persons resident within the proper bounds of the burgh, whose rents in property or tenantry amount to £10 per annum, and upwards, is 76, of whom 50 are burgesses. The number of such persons whose rent in property or tenantry amounts to £5 per annum, and upwards, but is under £10, is 72, of whom 24 are burgesses. POPULATION.

In the suburbs there are 24 persons whose rents amount to £10 and upwards, and 50 whose rent is under £10, but amounts to £5 and upwards.

The whole Property of the burgh, except the town-house and customs, which were considered not to be attachable by creditors, was sequestrated on the 22d June 1822, at the instance of the town's creditors, and sold under the authority of the Court of Session, in a process of ranking and sale. PROPERTY.

The Revenue of the burgh consists of the customs, which produce £15 yearly, and the entries of burgesses, which yield about £12 yearly; in all £27. REVENUE.

EXPENDITURE.

The Expenditure for the year is:— EXPENDITURE.

	£.	s.	d.
Market expenses	3	0	0
Magistrates' seat in church, and town clock	2	10	0
Town officer	1	0	0
Exchequer dues	0	13	9
Repairs of town-house and gaol, supposed	2	0	0
Business, supposed	1	10	0
Miscellaneous	5	0	0
	£15	13	9

The Debt now due by the burgh is £35, for repairs on the town-house. DEBT.

The magistrates and council do not levy any Taxes except the customs. TAXATION.

The Jurisdiction of the magistrates extends over the royalty, the boundary of which is ill-defined. It is stated that great inconvenience arises from the criminal jurisdiction of the magistrates not extending over the suburbs of the burgh. JURISDICTION.

The magistrates possess the ordinary jurisdiction of magistrates of royal burghs.

The number of civil causes is, upon an average, about 20 yearly. The criminal prosecutions, chiefly for petty riots, amount to about 15 yearly. The magistrates are not assisted by any assessor.

The magistrates have no Patronage, except the offices of town-clerk and treasurer; neither of these officers have any salary. The town-clerk draws some emoluments from the fees of court, and of infeftments, but they are inconsiderable. PATRONAGE.

A person must be a burgess to entitle him to trade within burgh. The fees of admission are £2 for a stranger, and £1 for the son or son-in-law of a burgess. EXCLUSIVE PRIVILEGE.

The magistrates and council grant licenses to unfreemen. There is no guildry, and there are no incorporated crafts.

The affairs of the burgh prior to the last election were managed by a council consisting of 15, and three bailies, elected thus,— ELECTION OF MAGISTRATES AND COUNCIL.

The three senior councillors retired yearly on the first Friday after Michaelmas, when a new election took place.

AUCHTERMUCHTY.

In order to make the election it was necessary the council should be full. For this purpose the council having met, supplied the vacancies occasioned by the retiring of the three senior councillors, and by the absence of any of the other councillors from leets made by them from the burgesses, on which the three retiring councillors might be placed, the persons voted into the council from these leets having accepted, the old council was considered full. They then proceeded to elect the new council, and, the new council being completed, they chose the bailies from leets composed either of councillors, old bailies, old councillors, or burgesses. If one or more of the councillors were elected to the magistracy, the council proceeded to supply the vacancy thus occasioned from leets as before. The treasurer, billet-master, fiscal, and meal-searchers were chosen from leets made by the council.

The town-clerk was also chosen from a leet. The town officers were sometimes chosen from leets, and sometimes not.

The magistrates and council are now elected in terms of the statute 3 and 4 Will. IV. The number of the council is too great.

POLICE.

There is no special statute regulating the Police of the burgh. A sufficient number of constables are annually sworn in by the magistrates, who, with the town officer, form the police force of the burgh.

Documents.

The following Documents accompany this Report:—

1. Answers to Heads of Inquiry issued by the Commissioners, October 1833.
2. Copy Sett of the Burgh of Auchtermuchty.

JAMES CAMPBELL.

REPORT

ON

THE BURGH OF AYR,

AND ON

THE TOWN OF NEWTON-UPON-AYR.

(AYRSHIRE.)

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I.—AYR.

THE town of Ayr was first erected into a royal burgh by a Charter from William the Lion in 1202. In this charter (which was exhibited to the Commissioners) the grants are very extensive. Additional territory and further privileges were granted to the burgh by later charters. CHARTERS OF ERECTION.

By these charters, the Liberties of the burgh were declared to extend over districts, which, at the present day, form the parishes of Ayr and Alloway. The jurisdiction of the magistrates still extends over these conjoined parishes. The greater part of this territory was long ago feued out to be held of the town. Boundaries.

In 1812, the magistrates and council, in consequence of an application from the burgesses, declared the royalty to be confined to the property holding burgage, and an act of council to this effect was produced to the Commissioners; but it is obvious that such a proceeding could not make any effectual change of jurisdiction.

The Water of Ayr forms the eastern boundary of the royalty, and separates it from the populous communities of Newton-upon-Ayr, Wallacetown, and Content, which were united with Ayr under the Parliamentary Reform Act. The jurisdiction of the magistrates of Ayr, however, is at present entirely confined to the west side of the river. Newton-upon-Ayr has been for centuries a separate burgh of barony, and is under the government of a magistracy of its own. Wallacetown and Content are of modern origin, and are not under the government of any separate magistracy. The two last places lie in the parish of St. Quivox. Newton is a parish of itself.

The Population of the burgh and parish of Ayr, by the census of 1831, was 7,606; but the population of the burgh, as separate from the Landward district, is not specified in the return. It may be stated as exceeding 6,500, and has increased upwards of one-third during the present century. The population of Newton-upon-Ayr was, by the census of 1831, 4,020, being considerably more than double of the census of 1801. POPULATION.

The number of persons resident within the proper bounds of the burgh, (in so far as these are included within the parliamentary line,) whose rents in property or tenantry exceed £10, is 280, and of those 119 are burgesses. There are 176 owners and occupants whose rent is between £5 and £10, of whom 99 are burgesses. No return of the proprietors and tenants within the parliamentary boundary but beyond the burgh, was made to the requisition of the Commissioners. Constituency.

The number of electors enrolled in 1832 was 291, but no contest was then expected, and this number falls short of the real constituency. Within the burgh of Newton-upon-Ayr, it was the opinion of the authorities that not one-fifth of those qualified had enrolled.

There has been no alteration in the Sett of the burgh since the Report to the Convention of Royal Burghs in 1713. This sett will be found in the Appendix to the Report of the Select Committee of the House of Commons on Scots Burghs, 14th July 1820. SETT.

The number of the council is 17—consisting of a provost, two bailies, dean of guild, and treasurer, who constitute the magistracy, and 10 merchant and two trades' councillors.

The burgh of Ayr is possessed of heritable Property, yielding a considerable revenue. This consists, PROPERTY.

I. Of an extensive common, which is divided into fields, and which, with some trifling portions of ground at the shore, forms the landed property of the town. This, with the wreck and ware upon the sea-shore, yields a revenue of £194 8*s.* 6*d.*

II. Of house property, consisting of
1. Houses and shops within the town, the rent of which was £264 17*s.* 4*d.*
2. Three mills let at £273.
3. Houses, store-yards, and lime-kilns, with small unenclosed portions of ground attached to them at the shore, let last year at £54 5*s.*

III. Of feu duties, consisting of
1. Feu duties of lands in the Burgh Field and Burgh Roods in the vicinity of the town, amounting to £3 5*s.* 5*d.*
2. Feu duties of lands in the barony of Alloway, yielding £117 2*s.* $6\frac{12}{20}$*d.*
3. Feu duties of ground, with houses thereon, in the Town's Green and neighbourhood of burgh, yielding annually £174 11*s.*
4. Feu duties of salmon fishings in the rivers Ayr and Doon, and sea adjacent. The amount of these vary according to the number of cobles in use. They yielded last year £2 2*s.* $2\frac{8}{12}$*d.*
5. Feu duties of the lands of Friars, Dankeith, in the parish of Symington. These lands were never comprehended within the liberties of the burgh. The annual amount is £7 4*s.*

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IV. The site and building of the old churches of Ayr and Alloway, together with their burying-grounds, belong in property to the burgh of Ayr. The fees paid by the inhabitants for burying-places form part of the ordinary revenue of the town.

V. The magistrates have the property of certain seats in the old and new churches of Ayr. These last year yielded

	£.	s.	d.
1. Old church	37	11	9
2. New church	148	7	6
	£185	19	3

VI. There is surplus teind payable to the town out of the Burgh Field and other lands holden of the town. The amount of this is £10 9*s.* 5*d.*, but for some years back only £1 15*s.* 3*d.* has been annually collected. The remainder, it is said, cannot be recovered, as there is some confusion and dispute as to the allocation, which no means have yet been taken to clear up.

In addition to the above property, the ordinary revenue of the burgh is derived from its customs and the dues payable on the admission of burgesses.

Customs levied by Magistrates.

The Customs levied by the town, for the year ending Michaelmas 1833, were as follows:

	£.	s.	d.
1. Shore dues levied at the harbour	93	10	0
2. Meal market custom and duties on visiting and sealing of malt ground at the mills of Ayr	15	0	0
3. Grain market customs	21	0	0
4. Flesh market dues	65	0	0
5. Nolt and sheep custom, with houses and ground at the market	90	0	0
6. New market tron custom	67	0	0
7. Northern, formerly called bridge custom	130	0	0
8. Causeway or southern custom	65	0	0
9. Fair custom	1	5	0
10. Weighing machine	10	0	0
11. Street dung for six months	5	0	0
	£562	15	0

In reference to the above list, it is proper to add that the meal market and grain dues were granted by an Act of Parliament in 1662, in consideration of a meal market which the burgh was to build and maintain. The magistrates by this Act were authorized to charge 4*s.* Scots (4*d.* sterling) for each sack load of meal brought to the said market in all time coming; but one-half only of this duty has hitherto been exacted.

The other customs above enumerated are authorized by a general clause, giving power to levy customs, in the charter of William the Lion, and by usage, from time immemorial. A table of the bridge and causeway customs was made up in 1780, and by an act of the council, dated 12th May 1731, approved of, and ordained "to be a standard in all time coming."

The whole of these customs, with the exception of the shore dues, are let by public roup, and there are separate tables of dues in the hands of the tacksman. The shore dues are collected by the water bailie, who receives a per centage upon the collection.

Burgesses are exempted from payment of the shore dues upon British commodities, and guild brethren are also exempt from duty upon foreign merchandize. With this exception, there is no exemption from any of the above customs.

The town is also possessed of considerable property, some of which does not yield any revenue. This property comprehends the churches, gaol, Wallace-tower and clock, new spire, with the assembly rooms attached, the poor's house, &c., &c. The burgh also possesses a powder house, in the neighbourhood of the town, for containing gunpowder the property of the merchants; and they claim a square of ground in front of the new court house, and various other unoccupied pieces of ground within the burgh and its liberties.

Revenue.

The Revenue of the burgh, for the year from 1832 to 1833, appears from the printed abstract of the treasurer's accounts to have been as follows:

	£.	s.	d.
1. Feu duties	304	5	$2\frac{5}{12}$
2. Superplus teind	1	15	3
3. Rents of houses, lands, mills, and other subjects within the burgh and its liberties	973	0	1
4. Town's customs	562	15	0
5. Miscellaneous articles of ordinary income, including compositions for entries of freemen and guild brethren, and the proportion of road money, being one-third of the parish road money, &c.	115	8	$2\frac{8}{12}$
Total ordinary income	£1,957	3	$9\frac{1}{12}$
6. Lordship of coal	47	13	9
7. Incidental articles of charge	52	9	5
	100	3	2
Total income	£2,057	6	$11\frac{1}{12}$

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The Expenditure of the burgh, for the same period, consisted generally of the following articles:

	£.	s.	d.
1. Public burdens	11	18	$8\frac{6}{12}$
2. Salaries	512	5	$2\frac{3}{12}$
3. Interest of borrowed money	616	9	6
4. Miscellaneous ordinary disbursements, including the ordinary burgal expenditure	729	19	$2\frac{6}{12}$
Ordinary expenditure	£1,870	12	$7\frac{3}{12}$
5. Articles of incidental discharge and disbursement, including repairs of the property of the town	1,524	15	$9\frac{6}{12}$
Total expenditure	£3,395	8	$5\frac{9}{12}$

Public Burdens payable upon the Burgh Property.

The Public Burdens of the town are very moderate. They consist

1. Of fees payable by the burgh in Exchequer, being £1 1*s.* 9*d.*, but not exacted.

	£.	s.	d.
2. Missive dues payable to the convention of royal burghs	6	5	0
3. Cess, poor's money, road money, and bridge money, payable upon the town's lands	5	0	$5\frac{1}{2}$
4. Teinds payable out of the town's lands	0	13	3
	£11	18	$8\frac{1}{2}$

Salaries.

The Salaries paid out of the funds of the town for the year, from 22nd November 1831 to 22nd November 1832, were as follows:

	£.	s.	d.
1. Provost	5	13	4
2. The two bailies	7	13	4
3. Dean of guild	0	8	4
4. Treasurer	20	0	0
5. Water bailie	0	5	$6\frac{3}{4}$
6. Procurator fiscal	0	5	$6\frac{3}{4}$
7. Four town's officers, at £20 each	80	0	0
8. Two bell-ringers	10	0	0
9. Keeper of the record of the dead	1	6	0
10. Billet-master	5	0	0
11. Keeper of the town's arms	3	3	0
12. Precentors	32	0	0
13. Keeper of the clocks	5	19	0
14. Directors of the academy for the rector and other teachers	100	0	0
15. Stipends to ministers, viz.,			
1. The minister in the first charge — £. 16 s. 13 d. 4			
2. The second ditto — 183 17 $9\frac{4}{12}$			
	200	11	$1\frac{4}{12}$
16. Gaolers	40	0	0
	£512	5	$2\frac{8}{12}$

ALIENATIONS.

It was stated to the Commissioners that there have been no Alienations of the property of the burgh for the last forty years.

DEBT DUE BY THE BURGH.

The amount of Debt due by the Burgh amounted at 1st October 1833 to £21,709 4*s.* $5\frac{6}{12}$*d.* There was, however, a sum of £2,885 14*s.* 6*d.* due to the town from the bridge trust and from arrears of feu duty. The net amount of debt, therefore, may be stated as £18,823 9*s.* $11\frac{6}{12}$*d.*

All this debt has been contracted since 1792. From a copy of the annual account of 1792 furnished to the Commissioners, it appears that at that period a balance of a few hundred pounds stood at the credit of the town. But the whole income of the town for that year was little more than £740, while the revenue of last year was £2,057 6*s* $11\frac{1}{2}$*d.*

Some part of this debt has not been prudently or usefully incurred. In particular, in 1830, upwards of £700 were expended in rebuilding Wallace-tower, which the community were anxious to have renewed; but either from a deficiency in the specifications at first given, or from faulty work, the building first erected gave way, and it had to be entirely rebuilt in 1832, at an additional expense of £1,500.

TAXATION.

The only Taxation to which the inhabitants of Ayr are subject is for *cess* and *poor's money*.

Cess.

The amount annually raised in name of *Cess*, for the last ten years, has averaged £109 5*s.* Of this, £97 10*s.* is payable to Government; £1 5*s.* is payable to the agent of the royal burghs, but has not been demanded for some years back. The collector receives £10 for the expense of collection, the treasurer, generally, acting in that capacity; and the remaining 10*s.* is for dead and waste.

The assessment is chiefly levied on lands and houses, the former being rated at 1*d.* per pound, according to an old valuation roll which estimates the whole rental at £7,663 5*s.*; the latter at 2*d.* per pound on the real rental, as periodically made up by assessors under authority of the magistrates, the valuation at present in use estimating the total house rental at £6,903. A small portion of the sum required is made up by a trifling stent imposed upon trade.

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Poor's Money.

Poor's Money is levied, one-fifth on lands, according to the same old valuation roll as the cess, and the remaining four-fifths upon the means and substance of the resident inhabitants, as estimated by assessors appointed by the magistrates.

The amount of poor's money for 1831-32-33, respectively, was £605 11*s.* 1*d.*, £607 11*s.* 1½*d.*, and £991 6*s.* 3*d.* The great increase was partly owing to the distress occasioned by the cholera, and partly to the circumstance that a sum left in general terms, for behoof of the poor, which had been gradually drawn upon in former years, became finally exhausted in 1832.

The rate of assessment for last year was 1*s.* 3*d.* per cent. upon capital, and 6½*d.* per cent. upon rent.

Mortifications.

There are several Mortifications for behoof of the poor, which are heritably secured over the property of the town. These consist of

		£.	s.	d.
1.	Sum mortified by Mr. Andrew Cochrane -	100	0	0
2.	Ditto by Mrs. Elizabeth Smith Storie -	100	0	0
3.	Ditto by Hugh Mair - - - - -	300	0	0
4.	Ditto by Mr. James Dick, Manufacturer	100	0	0
		£600	0	0

Poor's House.

The annual proceeds of these sums are applied by the magistrates and kirk session towards the maintenance of a Poor's House, built many years ago, for the accommodation of the old and infirm, who had no relations to take charge of them. The poor's house is under the charge of a numerous body of directors. The magistrates and kirk session are directors, and every heritor within the parish of £50 of rent. There are at present about 20 inmates, and a large sum, not necessary for their support, is distributed by the directors in out-door charity.

There are no other sums mortified for behoof of the poor in Ayr.

Mr. Fergusson's Mortification for the Clergy and Schoolmasters of Ayr.

The late John Fergusson, Esquire, of Doonholm, on the 4th of October 1790 executed a deed, bequeathing the sum of £2,000 to the magistrates and council of Ayr, to be heritably secured by them, or vested in the purchase of land. The proceeds of this mortification were one-half to be divided equally between the two Ministers of Ayr, and the other half to be distributed in certain proportions among the public Schoolmasters of Ayr.

Academy.

In 1798, a considerable sum was collected by voluntary subscription, part of which was laid out in erecting buildings, and providing necessary salaries for the teachers; and the remainder was placed under the government of directors, erected by royal charter into a body politic and corporate. This charter is dated the 28th of June 1798, and commits the management of the academy to—seven directors, annually chosen from the magistrates and town council of Ayr,—the sheriff depute of the county,—the nearest heir male of the late John Fergusson, of Doonholm,—all persons or incorporations subscribing £50,—and five persons annually chosen from subscribers under £50, and not under £5.

The teachers are chosen at meetings of the directors, from those best recommended by individuals capable of judging of their merits, and they may be discharged at six months' notice, if the directors are dissatisfied.

The following salaries are paid to them:—

	£.	s.	d.
Rector - - - - - - - - -	100	0	0
Teacher of arithmetic - - - - -	20	0	0
Ditto of Latin and Greek, including assistant -	35	0	0
French - - - - - - - - -	5	5	0
English - - - - - - - - -	10	0	0
Writing - - - - - - - - -	20	0	0
	£190	5	0

The fees of teaching are moderate. With the exception of a small increase in the dues of Latin, there has been no alteration during the last ten years.

The number of scholars attending the academy has, on an average of the last ten years, been from 490 to 500.

The magistrates and council do not possess the exclusive patronage of any school, but they have at present a preponderance in the direction of the academy.

Captain Smith's Mortification for a School.

In the year 1825, another fund was bequeathed by Captain John Smith, for the purpose of establishing a School. Captain Smith left the residue of his fortune, after the life-rent given to his wife should expire, to the provost, two bailies, and ministers of the Established Church of Ayr, as a fund for the "purpose of educating or assisting to the educating of certain poor children in the burgh and parish of Ayr, whose parents live therein, and are unable to educate them, to be nominated by the said magistrates and ministers from time to time, and the said children thus to be presented shall only be taught to read English, writing, and what are called the five common rules of arithmetic, so that they may be fitted for the common occupations of life."

By a Return made to the Commissioners in October 1833, this fund amounted to £2,122, whereof £1,100, was lent to the magistrates, and the remainder was invested partly in heritable bond, and partly in house property,

The revenue this fund produces is £88 yearly, whereof a salary of £55 is paid to the principal teacher, and £15 to an assistant, &c., and the balance, £18, expended in purchasing books, slates, &c., to the scholars. There are at present 160 scholars attending the school.

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Charitable Fund payable to Magistrates out of Robertloan.

The Magistrates have, for time immemorial, held a grant of 64 bolls of meal, and 30 merks of money, from the lands of Robertloan, in the parish of Dundonald, and King's Case, in the parish of Monkton, to be applied for behoof of eight pensioners from the town of Ayr. The origin of this right does not appear from the documents of the town, but the right is still exercised.

Patronage.

The magistrates do not possess the Patronage of any bursary, professorship, or other university endowment.

Established Churches in Ayr.

There are two Established Churches in Ayr. The Crown is the patron of the first charge, and the magistrates, in conjunction with the kirk session, have the appointment of the minister of the second charge.

The magistrates do not possess any other ecclesiastical patronage.

Office Bearers.

The council annually nominate their own officers, viz., the town clerk, fiscal, and other officers, with the salaries previously specified.

The Treasurer is annually nominated, and receives a salary of £20. He receives £10 more as collector of cess, and £5 more as treasurer of the bridge trust.

The town clerk is annually elected; but he considers that he holds his office *ad vitam aut culpam.* He receives no salary.

The procurator fiscal receives a nominal salary from the town of 5*s.* 6½*d.*, besides the usual fees of his office.

The magistrates also appoint the gaoler, who finds security for his intromissions, and holds office during pleasure. He receives a salary of £40 from the town, besides an allowance of £15 from the county.

No gaol fees are exacted from civil or criminal prisoners, except a fee of 7*d.* on the liberation of debtors.

State of Gaol.

The Gaol and court house have been erected within these 15 years, and the buildings are spacious and well aired; but the apartments of the gaol are not arranged with a view to any proper classification of the prisoners. On the contrary, the cells are so placed, as to prevent any prisoner from being subjected to solitary confinement; and the system of *day rooms,* in which numbers of prisoners are placed together during the day, is calculated to counteract every wholesome effect which might otherwise be derived from imprisonment.

The magistrates of Ayr are, *ex officiis,* trustees of the bridge of Ayr, and also of the harbour of Ayr, under separate trusts, constituted by different Acts of Parliament.

Bridge Trust.

In the year 1785, in consequence of the incommodious and insufficient state of the old Bridge of Ayr, an Act of Parliament was passed, authorizing the magistrates either to repair the same or to build a new bridge, as should seem more advisable.

Under this Act the magistrates and town council are authorized "to erect, build, and make all proper and necessary abutments, ramparts, wings, walls, banks, ways, and other works for the use, support, and preservation of the said bridge, and to make or widen all proper streets, passages and communications thereto, as they shall judge necessary, not exceeding 40 feet in breadth, and to light and clean the same; and for these purposes to take and make use of what private property shall be necessary, and they shall have full power and authority by themselves, their servants, agents, workmen, and others, from time to time, and at all times hereafter, to do all matters and things necessary and convenient for erecting and maintaining the said bridge, streets, or passages, they the said magistrates and council, and their successors in office, first making satisfaction and recompence to the owners or occupiers of any lands or hereditaments that shall be made use of, damaged, or prejudiced, by or on account of rebuilding the said bridge, and making or widening streets or passages thereto."

By the 21st clause of the Act, it is declared that the new bridge should be vested in the magistrates and council, and their successors, as well as the whole pontage tolls or duties which should be levied and recovered by virtue of the Act. By the 22nd clause, the magistrates and council are empowered to borrow a sum not exceeding £5,000, upon security of the bridge tolls, or of the town's revenue; "all which money so to be borrowed shall be employed for and towards the building, making, erecting, maintaining, and repairing the work or works aforesaid, and to no other use whatever." By the 25th clause, certain commissioners are appointed for auditing or inspecting the accounts, receipts, and disbursements of the tolls and pontages of the said bridge, these commissioners being—the Members of Parliament for the county and burgh of Ayr,—the sheriff of the county,—the provost of Irvine,—the eldest bailie of Kilmarnock,—the eldest bailie of Maybole,—the eldest bailie of Newton,—the convener of the trades of Ayr,—every heritor possessed of property valued in the cess books at £1,000 Scots,—and 20 burgesses of Ayr, to be nominated yearly by the guildry. These commissioners are appointed to meet in the court house of the town. The 27th section of the Act provides, that as soon as the said tolls and pontage "shall have produced clear money sufficient for repaying the full sums liquidated and ascertained to have been expended, as aforesaid, with interest thereof, together with such further sum or sums as the said commissioners, or any five or more of them shall find to be necessary for producing an annual rent sufficient to defray, for ever after, the expenses of maintaining and repairing of the said bridge, that then the said commissioners, or any five or more of them, shall direct and allow retention or payment of the said sum and sums of money to the magistrates and councillors of the said town of Ayr, and shall discharge and release them in respect thereof; and, upon such payment or retention and discharge being made, shall declare all tolls and pontages for the said bridge to have ceased, and the same to be for ever after free."

A strong representation has been made to the Commissioners, that in terms of this Act, the toll leviable at this bridge should, long ago, have ceased. It is manifest, from the situa-

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tion of the toll, (which is placed in the very midst of the most populous and best-frequented part of the suburbs of Ayr,) that large sums must have been levied, and must always continue to be raised from it, and that such levy, if illegal, ought to be immediately prevented. But though the bridge was built upwards of 45 years ago, and at that period cost only about £4,000, it has been represented in the bridge accounts, furnished to the Commissioners, that there is still nearly £3,000 of debt unliquidated.

The magistrates, on being asked for an explanation of this large and continuing charge on the bridge, represented,—that it was chiefly incurred by additional debts, contracted from time to time in the widening of streets, removal of buildings, and other expensive operations in the streets leading to the bridge, as well as in making *embankments* on the river to preserve the bridge. On the other hand, sundry persons who are largely interested in the property of Ayr, and its neighbourhood, maintain, that a most unwarranted latitude of construction has been given by the magistrates to the clause of the Act before quoted; and that sundry improvements and alterations on streets not connected with the bridge have been most improperly thrown upon and included in the trust. It has also been the subject of complaint, that the magistrates take an annual payment from the tolls levied at the bridge, on the plea that they are entitled to it as "bridge custom," which they have no legal right to exact, at least to the amount now appropriated by the magistrates.

It would appear, from a Report of the Commissioners of Supply of Ayrshire, (transmitted to the Commissioners,) that the subsistence of the pontage attracted the attention of the county of Ayr in the year 1829; and that they appointed a committee, who made a Report upon the subject, (also transmitted to the Commissioners,) stating very strong grounds for questioning a great part of the administration of the magistrates under this trust, particularly in reference to the amount of the sums borrowed upon it, and the application of the pontages.

Upon inquiry as to the circumstances which had prevented the neighbouring proprietors, or the county of Ayr generally, from acting upon this Report, and bringing the allegations and pleas therein urged under the cognizance of a court of law, with the view of obtaining redress, the Commissioners received information to the following effect from William Crawfurd, Esquire, of Crawfurdland, an heritor, who has complained of the continuance of the toll. He states, "That on 6th November, 1829, I and two other Commissioners, possessed each of £500 of valued rent, and as authorized by the Ayr Bridge Act, sent a requisition to the Parliamentary Commission, appointed by said Act, to appoint a meeting of their body to be held on 29th December 1829, and to require the magistrates and town council, as bridge trustees, to produce the whole of their accounts and vouchers, relative to the receipts and disbursements of the bridge tolls, at the said meeting, and the same being produced, to examine the same, and to ascertain, in terms of the Act, how the balance stood, and, if it should appear that there was any balance still due of the moneys expended in building the bridge and other works, directed by the Act 25 Geo. III., c. 37, to ascertain the amount, and to reduce the tolls, so that the sum levied annually should not exceed 7½ per cent. on that balance.

"In terms of this requisition, the Parliamentary Commissioners called a meeting of their body, which was held on the 29th December, and at which, as ordered, the bridge trustees produced their accounts.

"I, as convener of a committee appointed by the county to attend to their interests in this matter, and as having been one of the legal requisitionists, attended this meeting, and was prepared to state objections to the accounts of the bridge trust. These objections were,—

1. "That the trustees had greatly exceeded the sum to be expended in building the bridge and works connected therewith, to which they were limited by the Act of Parliament, and that they were illegally exacting toll, for the purpose of extinguishing a debt not authorized by the Act.

2. "That the revenue of the bridge was applied to purposes foreign to those contemplated by the Act.

3. "That about one-third of the toll-dues had been deducted from the funds, in name of bridge custom, and was transferred to the common good of the town; and, even granting the magistrates were entitled to levy bridge custom, the amount so raised must, according to Act 1686, c. 8, be applied in the first instance to upholding the bridge.

"Although the provost of Ayr, as representing the bridge trustees, was not only, along with ten councillors, added to the sederunt, but was allowed to speak several times in support of the account, when much discussion took place, I, although claiming to be heard in behalf of the county, was not permitted to say one word, upon the ground, simply, that I was not a bridge commissioner, and therefore had no right to take any part in the discussion. They also declined to insert in the minutes that I had appeared and claimed to be heard."

Remarks and Suggestions.

The Commissioners feel it their duty to report this complaint, as one deserving serious consideration, and an appropriate remedy. It humbly appears to them that the Bridge Act is defective, in giving too great a preponderance, among the Commissioners appointed for auditing the accounts, to those connected with the town council or burgh of Ayr; more especially as it seems to be disputed, that proprietors in the county, though largely interested in the abolition of this toll, have a legal title to bring the proceedings of the trustees and commissioners under cognizance of a court of law. Abuse would be obviated, by providing that every party interested in any municipal tax or trust should be entitled to bring its administration under the cognizance of the sheriff, or the supreme court, on finding caution for the costs if his challenge were found frivolous and vexatious.

HARBOUR TRUST.

In the year 1772, an Act was passed for deepening, preserving, and maintaining the har-

bour of Ayr; for enlarging and improving the quays and piers; for erecting docks, breasts, jetties, and piers; and for regulating ships, lighters, and other vessels, trading into, and going out of, the said harbour; and for other purposes therein mentioned. The term of this Act was continued, and its powers enlarged in 1794. 34 Geo. III. c. 59.

These Acts having expired, an Act was passed in 1817, for improving and maintaining the harbour of Ayr, and for regulating vessels resorting thereto. By this Act, the magistrates and convener of the trades in Ayr, the first bailie of Newton-upon-Ayr, and one shipmaster of the port of Ayr, to be nominated by them, were appointed trustees to carry its provisions into execution; and they were authorized to lend a sum not exceeding £2,500 upon the undertaking. 57 Geo. III. c. 3.

From the account for 1833, the receipts and expenditure for the harbour were as follow:—

	£.	s.	d.
Amount of tonnage dues	779	13	8½
Ditto of crane dues, fines, &c.	9	16	7
	£789	10	3½
Expenditure for harbour	£1,282	4	7 8/12

The harbour dues leviable at the port of Ayr are charged upon goods, and according to a scale rising with the tonnage of the vessel. The following table exhibits, at one view, the whole dues leviable.

Registered tonnage of vessels.	Dues on Goods, per ton.			Dues on Coals, per ton.			Anchorage, per voyage.			Planks and Barrows, per voyage.			Tenders, each day.			Crane Dues, per ton.
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	
Under 10 tons	0	0	3	0	0	2	0	0	6	0	1	0	Vessels under 20 tons are exempt.			Two-pence per ton upon all commodities loaded or discharged by the crane at this harbour.
10 and under 20	0	0	4	0	0	2½	0	1	0	0	1	0				
20 and under 40	0	0	5	0	0	3	0	1	6	0	1	0	0	0	2	
40 and under 60	0	0	6	0	0	3½	0	2	0	0	1	6	0	0	3	
60 and under 80	0	0	7	0	0	4	0	2	6	0	1	6	0	0	4	
80 and under 100	0	0	7	0	0	4½	0	3	0	0	1	6	0	0	5	
100 and under 150	0	0	8	0	0	5	0	4	0	0	2	0	0	0	6	
150 and under 200	0	0	8	0	0	5	0	5	0	0	2	6	0	0	6	
200 and upwards	0	0	8	0	0	5	0	7	0	0	2	6	0	0	6	

The expenditure of the harbour for last year exceeded the revenue drawn from it by £492 14*s.* 4 2/12*d.* The present amount of the debt is £688 9*s.* 6d., due to the Ayr Banking Company, £500 of which is constituted by bill. The debt for the previous year was £192 13*s.* 10*d.*

The annual receipts have varied from £1,200 to £789 10*s.* 3½*d.*, which was the amount of the ordinary revenue for the year ending 6th June 1833. The decrease of late has been occasioned by a falling off of trade, arising from the stoppage of the coal mines in the neighbourhood, and a consequent diminution in the export of coal. The coal works are said to be again at work (1834).

A large portion of the expenditure for last year consisted of repairs upon the harbour, and building the north-quay wall. But there is a sum of upwards of £300 which may be considered as invariable expenditure; part of which, £35 12*s.* 8*d.*, is required for upholding the light-house, and upwards of £100 for annually cleaning and dredging the harbour and lighting the quays. The salaries to office-bearers under the harbour trust are also included; they consist of

	£.	s.	d.
Harbour-master	107	10	0
Assistant ditto	7	13	0
Clerk to trustees	5	0	0
Accomptant	2	2	0
	£122	5	0

The bridge tolls and harbour dues are annually disposed of by public roup, after notice in the Ayr and Glasgow newspapers.

EXCLUSIVE PRIVILEGES.

There are both guild brethren and burgesses in Ayr; and no person is entitled to carry on trade who is not a member of one or other of these bodies.

BURGESSES AND GUILD BRETHREN.

The fees payable by strangers on admission are £2 15*s.* 6*d.* for a Burgess, and £8 16*s.* 8*d.* for a Guild Brother. When the intrant's father belongs to these bodies the admission is £1 1*s.*, and if he is dead the admission is 5*s.* If the intrant's grandfather is alive, and has belonged to these bodies, the fees are £2 2*s.*, and if deceased 10*s.* Where a grandfather has been a burgess or guild brother the admission is 10*s.*

Burgesses possess the privilege of carrying on trade within the burgh, and of vending British manufactures.

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Guild brethren have right, besides, to import and sell foreign merchandize.

The inhabitants and burgesses, as such, have no seat at the council, guild brethren alone having a right to act as magistrates or councillors.

Both burgesses and guild brethren are subject to the usual duties of watching and warding.

The number of burgesses entered during the last 40 years is 375, and of guild brethren 322.

There are 96 *honorary* burgesses and guild brethren; but from these no fees are exacted.

There are no separate funds peculiar to either of the above bodies.

Merchant Company of Ayr.

A considerable time ago a Merchant Company or association was incorporated by a seal of cause from the magistrates and council. Burgesses and guild brethren are alone eligible as members of this company. The members have no exclusive privilege as such, either mercantile or political; and, more particularly, they have no voice in the election of the town council. They have a widows' fund, to which each member contributes £1 1*s.* yearly, besides a sum of entry money, varying according to the age of the intrant.

Incorporated Trades of Ayr.

There are nine Incorporated Trades in Ayr, who have the following number of members in each:—

1. Squaremen	51
2. Hammermen	24
3. Tailors	21
4. Skinners	3
5. Coopers	6
6. Weavers	42
7. Shoemakers	27
8. Dyers	4
9. Fleshers	15

All of these corporations appear from their records to have been incorporated by separate royal charters, with the exception of the coopers and dyers, who had a seal of cause from the magistrates; and the whole corporations are included under the general charter to the craftsmen of Scotland, granted by Queen Mary in 1564. Reference is made in this Act to the prior Act of 1555.

1st March 1564.

The incorporated trades possess the exclusive privilege of manufacture within the royalty. The privilege does not extend to any of the suburbs upon the east side of the river, and thus is easily evaded. The number of members in each corporation is sufficient to ensure competition, and the only advantage to the craftsmen themselves consists in the support provided for their widows, and in the relief given to the indigent in old age.

The following fees are exacted from intrants to these corporations:—

	£.	*s.*	*d.*
I. For squaremen. This corporation includes the trades of mason and wright, and slater and glazier; the entry is,			
(1.) For a mason and wright:			
If a stranger	7	14	0
If an apprentice	5	5	0
If the apprentice is a freeman's son	3	4	9
(2.) For slater and glazier:			
If a stranger	14	18	0
If an apprentice	8	8	10
If an apprentice and freeman's son	5	14	0
II. Hammermen. This comprehends the trades of clock and watch maker, silversmith, blacksmith, copper and tin smith. The entry money is:			
For a stranger	6	16	0
Apprentice	3	16	0
Freeman's son, or son-in-law	2	14	0
Journeyman	0	3	2
And £1 1*s.* additional in case of entering the widows' scheme of the corporation, which is optional.			
III. Tailors. The entrance money for a stranger is:	6	12	0
For a freeman's son, or son-in-law	2	14	6
IV. Skinners. The fees of entering the skinner corporation are	12	0	0
V. Coopers. The entrance dues of the coopers are	6	0	0
VI. The entrance dues of the weavers are:			
For a stranger	4	0	0
Freeman's apprentice	2	0	0
Ditto son	0	16	0
Entry of a journeyman	0	2	0
Ditto of an apprentice	0	5	0
VII. Shoemakers. The entry money of the shoemaker corporation is:			
For a stranger	8	18	3
For a freeman's son	4	9	1½
VIII. Dyers. The admission of strangers into the dyer corporation is	5	0	0
Freemen's sons	1	13	4
Ditto apprentices	3	6	8

	£.	s.	d.
IX. Fleshers. The entry money of the fleshers is :			
For a stranger - - - - - - - -	3	3	0
For a freeman's son - - - - - - - -	1	11	6

The entrance money has invariably been paid into the funds of the respective corporations. Most of them are consequently possessed of considerable funds, which are appropriated for the benefit of the aged and decayed members, widows, and children. A separate scheme for the support of the widows has been created in some of the corporations, which it is optional to enter. The squaremen, hammermen, tailors, weavers, and fleshers have a scheme for this purpose, and entrance money and annual payments are exacted from intrants to the scheme. Where this scheme exists, the funds are blended with those of the corporation, and a fixed provision is made to the widows of the members. The annual payments vary from 8*s.* to 1*s.*

In the other corporations the funds are appropriated to the relief of the indigent and decayed members, widows, and children, as their circumstances may require.

The funds thus possessed by each corporation vary in amount from £50 to £1,500, and are, in general, vested in the purchase of heritable property.

The Commissioners found that there was a pretty general sentiment in Ayr, as in other places, as to the inutility and inexpediency of exclusive privileges. Almost every intelligent and independent member of the community with whom the Commissioners conferred concurred in thinking them prejudicial; and even the better informed among the privileged themselves gave the same opinion. In fact, the privileges here are so easily evaded, by individuals settling on the opposite side of the bridge, that they are of no essential value.

Accordingly, there seems to be an universal expectation that the Legislature is soon to propose some measure for the abolition of these privileges; and with that view there have been several very extraordinary and questionable proceedings in some of the trades' corporations, of appropriating to the present members the funds at present belonging to the craft. In particular the following facts were established to the satisfaction of the Commissioners.

Misappropriation of the Funds of the Incorporated Trades.

The Funds of the Skinner corporation had, from time immemorial, been invested in a garden, which usually went by the name of the Skinners' *Yeard*. Last year the corporation, then reduced to *two members*, one of whom was resident at Kilmarnock, while the deacon resided at Ayr, came to the resolution of selling this property, and of dividing the proceeds; but before this step was taken, the member at Kilmarnock got his son introduced, thus making three members. The property was then sold, and, after deduction of expenses, it yielded about £130, which sum the three members *divided among themselves*, each depositing his bill in the box as a nominal voucher for the sum taken. But as the box has two locks and keys, one of which is kept by the deacon, and the other by the oldest member resident at Kilmarnock, the bills were inaccessible to any party without the knowledge of the other, so that the whole was a manifest and ill-disguised manœuvre by the members of a decayed and useless corporation to appropriate the funds to themselves.

A few months ago, also, the corporation of Coopers, consisting of six members, made a similar division of their funds, by taking the cash, and putting their own bills into the box instead. Their funds consisted only of £40.

Jurisdiction of Magistrates.

The Magistrates of Ayr have all the Jurisdiction, civil and criminal, which belongs to other burghs. The exercise of this jurisdiction in criminal cases is, however, confined in practice to petty breaches of the peace. More serious offences are taken cognizance of by the Sheriff Court held in Ayr. The more important civil cases, also, are generally carried to the Sheriff Court, although the Burgh Court, affording, in some respects, a cheaper and more ready tribunal, is sometimes resorted to. The number of civil cases thus brought before the magistrates has, during the last ten years, been, upon an average, only 12 annually.

The jurisdiction of the magistrates, besides being exercised over the royalty, or property holding burgage, extends over the parishes of Ayr and Alloway. Unless some change in the constitution of the Sheriff Courts takes place, the restriction of the jurisdiction to the royalty would be attended with disadvantage to these parishes.

Dean of Guild Court.

There is a Dean of Guild Court held occasionally within the burgh, but it is not imperative on persons building within the town to apply for a warrant from the dean of guild, and it is only when disputes arise that a court is held.

Police.

There is no separate Police Act for the burgh of Ayr. The Lighting and Watching are paid out of the ordinary revenue of the town. There is no Water Company established, and the town is supplied by public wells.

Suburbs of Burgh.

The Suburbs on the east side of the river Ayr consist, as already stated, of Newton-upon-Ayr, Wallace-town, and Content. The two latter places lie in the parish of St. Quivox, are unincorporated, and have no council or magistracy. Newton-upon-Ayr, again, is, and has been for centuries, a separate burgh of barony. As it possesses considerable property, held under a peculiar tenure, it has been thought proper to give the details relative to it separately. These will accordingly be found in a subordinate Report appended hereto.

Expediency of Junction of Subordinate Districts.

In reference to the Junction of the whole territory within the parliamentary bounds into one united municipality, a difference of opinion exists; but the prevailing opinion of the witnesses examined is, that this would be a most salutary measure for the whole community. It was admitted, however, that the following considerations should be attended to, if any such junction were proposed to be carried into effect.

1st. The community of the burgh of Ayr conceive that if such suburbs as Wallace-town and

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Content are added to the burgh, the poor of these places should be maintained by the parish now liable for that burden, as the number of poor in these two districts would be considerable, while, from the inferior order of the tenements, there would not be any corresponding addition to the burgh rental.

2nd. The magistrates and freemen of Newton, on the other hand, urge very strongly that no junction should take place to the effect of rendering them liable for the large debt of the ancient burgh of Ayr.

Under these reservations, (which, if thought reasonable in themselves, can easily receive effect,) there will be no difficulty in uniting the whole property and population within the parliamentary bounds under one civic jurisdiction.

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CHARTERS of ERECTION.

THE date of erection of this burgh is not known. Its origin is traditionally ascribed to a grant by Robert the Bruce, in favour of 48 of the inhabitants, who had distinguished themselves in his service at Bannockburn in 1314. No satisfactory evidence of this can be referred to; but it is matter of history that Robert was at the Parliament held at Ayr, 26th April 1315, when the crown of Scotland was settled on him and his descendants; and it appears certain, from documents to which the magistrates of Newton-upon-Ayr made reference, that the erection of the burgh of Newton must have occurred some time between 1208-14 and 1446.

King James VI. granted a new Charter to the burgh in 1595, proceeding upon the narrative, *inter alia*, of certain ancient writings and title-deeds having been exhibited to his Majesty and his Treasurer, "quibus antiqua fundatio erectio et libertas dicti burgi clare et lucido testantur, quamvis occasione bellorum pestis temporumq. turbulentorum intra regnum n'rum pro tempore occurentium, antiqui evidenti litere et infeomenta dicti burgi, destructa combusta et consumpta fuisse."

After the clause granting of new, and erecting the burgh, there is in the charter the following clause: "Cum potestate etiam et plenaria libertate dictis burgensibus et inhabitantibus dicti burgi ac eorum successoribus, eor. terras communes acras et particatas ejusdem partiendi ac dividendi, et easdem in feudifirmam assedationem seu rentale aut alias prout eis magis videbitur expediens et commodius, burgensibus ac liberis civibus et incolis ejusdem burgi et nullis aliis assedandi et locandi."

The number of burgesses amongst whom this partition was made competent is not mentioned in this charter, but minutes or entries in the old records have been exhibited by the present magistrates, to establish that they then amounted to 48.

Constitution.

In 1600 King James VI. granted another charter, narrating that the erection of the burgh of Newton was beyond the memory of man, and that the lands and others therein mentioned had been given and disponed "burgensibus liberis et inhabitantibus ejusdem eorum heredibus et successoribus, de quibus ultra hominum memoriam in possessione extiterunt." It then ratifies and confirms the charter of 1595, "cum integris contentis privilegiis et immunitatibus in eodem specificatis;" and all other prior rights granted "prefato burgo de Newtoun de Air burgensibus et inhabitantibus ejusd. eorumq. predecessoribus heredibus et successoribus quibuscunq." There is then a disposition of new of the burgh and its pertinents "prefato burgo ac balivis consulibus burgensibus et liberis incolis ejusdem eorumq. successoribus in proprietate et hereditate," with all the privileges and immunities in the use or possession of the burgesses and inhabitants, and their predecessors in times past. And there is a revocation of all rights to others prejudicial to the grant in this charter, on the narrative, "Ac nos inde volentes burgenses et inhabitantes dicti burgi eorumq. heredes aut successores nullatenus ledi nec prejudicari in eorum t'ris prediis possessionibus privilegiis et libertatibus ejusdem ipsis eorumq. predecessoribus per nos ñrosq. nobilissimos progenitores temporibus preteritis concessis et confectis, sed ut eadem cum prefato burgo burgensibus et liberis ejusdem eorumq. heredibus et successoribus pro perpetuo tempore futuro absq. ullo obstaculo seu impedimento remanebunt."

After the grant of the lands and others to the burgesses, and their heirs and successors, this charter of 1600 proceeds to confer on them the power of electing bailies, treasurer, burgess councillors, and other officers necessary for the government of the burgh, and also the usual privileges of trade, and of holding fairs and markets; and, generally, the privileges and powers conferred by a grant of burgh, especially in regard to jurisdiction.

Records of the Freemen.

It appears that the Community, or Freemen of this burgh, have from a very ancient period had Records of their own, separate from those of the council. These records were founded on by the freemen, as establishing the following points.

1. That, prior to the date of the existing charters, the territorial possessions of the burgh were enjoyed by the individual freemen patrimonially, each having in old times had his own "*daill*" given to him, at the periodical partition of the lands, "according to the auld ordour used and wont."

2. That the right of a freeman in this burgh was heritable as well as patrimonial, inasmuch as sons,—whom failing, sons-in-law,—were entitled to succeed to the right on the father's demise, and to enter to the freedom in his stead.

3. That the number of freemen entitled to "*daills*" of the common property was limited, and in 1604, the date of the first daill after the existing charters, the limitation was held and understood to be precisely *forty-eight*, which is said to have been agreeable to the established law and custom.

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4. That this ancient heritable and patrimonial right of the 48 freemen to have each his "*daill*" of the common property was subjected, in 1604, to the burden of paying a proportion of a very large debt previously contracted, and with which the lands were at that time burdened.

It is alleged that the state of possession, both prior and subsequent to these charters, till the present period, has been conformable with this patrimonial and heritable character of the right.

The daill of 1604 was declared to subsist for 11 years, or till 1615, at which period a new division must have occurred; but of this there is no direct evidence, as there are no entries in the community book from April 1613 to November 1630, in consequence, as is stated in the minute, of the "default of umquhill George Angus of the Brighous," the last town clerk of this burgh.

On 8th December 1642 a resolution, repeated on 1st May 1643, is passed, to daill to each freeman the east side of the moss; but on 5th November 1644 this part of the common property "befoir dealt," is, "with consent of the hail counsale and communittie," set to the two bailies. This transaction does not seem to have been approved of, for on 8th May 1648 the bailies renounce their right, and this property is again ordained to be dealt to the freemen.

At successive periods, extending to seven years each, during the whole time between 1655 and 1764 inclusive, the allotment of "dailles" is entered in the minute book, in terms unnecessary to be here narrated.

At all the times now mentioned, the fact of the "*dailles*" being cast is recorded; but in no instance after 1604 till 1771 are the particular lots and names of the freemen given.

The next "daill" occurred on 21st November 1771, when, to remedy the evils experienced from the short periods of possession for which the casts had hitherto been made, it was resolved, that the cast or division of the lots or "dailles" "shall endure and continue for fifty-seven years after this date." The numbers of the respective lots drawn by the 48 freemen, and their names, are then particularly recorded.

The period of this last division expired in 1828, when a new division of the property, by lot, fell to be made;—and in this prospect, the freemen resolved to render their possession of the particular lots assigned to them respectively more permanent than hitherto.

Extension of duration of Dailles.

Accordingly, at the community meeting of 23rd January 1829, the Report of a Committee was approved of, which recommended the continuance of the lots assigned to the individual burgesses at that cast or division to be for 999 years after Martinmas 1828; and on 28th January 1829 the lots of the freedom lands, as fixed by the committee's report, were balloted for by the 48 freemen, and their respective possessions and names engrossed in the community book of that date.

10th April, 1833.

More recently, it appeared to the freemen to be desirable (the greater part of them being singular successors by purchase) that their several possessions should be vested in them by charter and sasine, as the charter of 1595 specially authorizes the lands to be feued to the burgesses and freemen; it was resolved by the community, of this date, that the magistrates and council should grant feu rights of their lots to such of the freemen as might wish to hold their lands in that manner. The feu rights so granted are to the freemen, their heirs and assignees, to be holden of the magistrates and council, as representing the community, for payment of an elusory feu duty, and the ancient composition of 8*s*. 4*d*. on the entry of heirs, and a duplicand thereof by singular successors, the proprietors being always bound to become burgesses and freemen of Newton, subject to all the burdens and entitled to all the privileges of the burgh.

Original Number of Freemen.

It has been mentioned that in 1604 the Number of Freemen entitled to shares of the common property was set forth as being exactly *forty-eight;* but no express mention of the number being 48 occurs again from 1604, till an Act of the Community, on 17th February 1752, when a minute is on record, bearing "that the bailies and council, and freemen present, unanimously agree that that part of the town's ground lying on the east side of the Newton Loch, betwixt it and the lands of Dalmelling, be equally divided amongst the forty-eight freemen entitled to dailles, and that each of them have a share thereof for labour, to continue to be divided by lot with the other freedoms." Since that date, the minutes repeatedly mention the 48 freemen entitled to dailles; and the particular lots of the property, as divided in 1771 and 1828, with the names of the individual freemen to whom they were assigned, are specially recorded, as already mentioned, in the community books.

The patrimonial rights thus vested in the 48 freemen were never, until the recent attempts in 1829, and since, the subject of separate titles in their persons. Under the charters, and the immemorial usage of the burgh, the entry as burgess and freeman formed of itself the evidence of the freeman's right to his share or daill of the common property, and the record in the community books of his entry, and of the right thereby acquired by him to a daill, constituted his only title.

Admission of new Freemen.

The power of Admitting new Burgesses lay with the community of 48 freemen; and in the record of their meetings, accordingly, are to be found all the entries of the heirs of singular successors to the several freedoms. From the operation of several causes, rights of freedom frequently fell to the community. Thus, those who did not pay their proportions of the original debt were declared to lose their right. So non-residence in burgh was, in early times, (though now said to be abolished,) declared to nullify the right. It appears, also, that the commission of crimes and misdemeanour was visited with the like forfeiture. And, lastly, by the original laws of succession recognized in this burgh, only sons, or sons-in-law, could succeed; so that freedoms often fell from want of proper heirs. The right, in all these cases,

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was at the disposal of the community; and entries in the minute books of the burgh have been exhibited, showing the admission of new freemen to fill up the number—a payment of money being required, which latterly was ordained to be £30. But no more than 48 were ever admitted to the privilege of the daill.

It appears, indeed, that the community, after completing that number, did at times admit others, although there were no dailles for them; but this was always under condition that they should have no right to the daill, "*till it should fall*;" these or similar expressions being employed, indicative that the right to the daill was to arise only when a vacancy occurred in the 48. Mere honorary burgesses were also admitted by the community, without the rights and privileges of ordinary freemen, as expressly provided by an act of the freemen. Farther, the sons of freemen were very frequently admitted during their father's lifetime, under the *proviso* that they should have their father's "daill," when it fell; *i. e.* on his decease. In this manner there might nominally have been more than 48 burgesses, although only that number had the privilege of the dailles; and accordingly the minutes of the community meeting, held for election of the magistrates and council, 1st November 1764, contains a sederunt of 60 names.

Succession to Rights of Freedom.

The Right of sons and sons-in-law to succeed to their father's Freedom was recognized in the earliest times; and in the minutes of date 16th December 1680, in appointing a new cast, it was ordained, "the said dailles to be this day casten and dewydit by lot to those who lineallie succeed to the samyn, according to the former acts, and the antiquitie of freemen and burgesses, as the several acts of the said toune do prescrive." The right subsequently given to the *widows* of freemen, and the rules of succession by which daughters, as well as sons, and collaterals, as well as descendants, were admitted to their ancestors' rights of freedom, as their heir, are given in an Appendix to a statement for the freemen, which was exhibited to the Commissioners. No departure from these rules, in recent times, seems to have occurred; and the composition exacted from heirs will be seen, from the various entries, to be of very trifling amount.

Sale and Transference of Shares.

Few instances of Sales of the rights of freemen occurred till within the last half century. The value of the right, indeed, was comparatively trifling till the discovery of a rich seam of coal in the lands, about the year 1765. Since that date the right of freedom has become a valuable property, and the list of Transferences that have taken place within the last 40 years shows about thirty freedoms that have passed into the possession of singular successors, the price varying, at different dates, from £70 to £500. The mode of transference, from the peculiarity of the right, has necessarily been peculiar. The freeman wishing to dispose of his right renounces it in favour of the community, at a fixed price, to be given out of new by them to the purchaser. It was at one time customary for the community to purchase rights of freedom to be disposed of by public roup to the highest bidder. In these cases, the renunciation by the freeman ceding his right was in favour of the community *ad remanentiam*. But, in other cases, the renunciation was the mere form by which the right of the person with whom the old freeman had transacted was completed. The whole transaction is recorded in the community books, after this manner. The seller is stated to have renounced his right for payment,—as by the community,—of the price of the freedom, and the purchaser is entered freeman and burgess in his stead, on payment,—as to the community,—of the price of the freedom, with the addition of £30, being the entry money, or bonus, to the general body, on entering such singular successor. It is said that no instance has occurred of the community refusing to enter any one with whom the freeman disposing of his right may have transacted;—That in early times, at the public roup of rights of freedom which had fallen to the town, the competition was limited to freemen's second sons and sons-in-law, "that have lost their freedoms within the last twenty years;"—That afterwards, at a sale of two freedoms, on 5th August 1801, free citizens generally were admitted as bidders; on which occasion one freedom brought £250 and another £252;—and that at last, at the sale of another freedom, by the community, on 1st September 1802, any good man was declared at liberty to offer; and the right, on that occasion, was bought by the father of one of the present freemen at £406. Since that period, there appear to have been freedoms or burgess-ships purchased and transferred at prices fluctuating from £280 to £520.

Shares adjudged.

These freedoms are said also to have been attached and sold by creditors. In particular, reference has been made to a decree of adjudication of James Wyllie's right of freedom, passed on 16th December 1815. Thus also the freedom of John Taylor is said to have been included in the ranking and sale of his heritable property, and purchased by Alexander Martin, who was thereafter entered freeman and burgess on payment of the accustomed rate of entry of £30. In like manner, the right is stated to have been made the means of obtaining money in loan by way of heritable security. It appears, also, that the freemen, as the heritable possessors of their respective lots, have been held liable for the proportion of teinds payable from their lands. This appears from various entries in the community books.

Feus for Building given at various times to the original Freemen.

Besides the property divided by dailles among the 48 Freemen, they have at various times obtained, out of the common property of the burgh, steadings of ground for Building, to be held in feu, for payment of a feu duty, and which were apportioned, after being laid off into 48 lots, in the same manner as the dailles. The first instance of a division of this kind took place on 1st March 1803; another occurred on 1st June of the same year, and a third on 10th June 1809. The proceedings on these occasions will be found recorded in the minutes of the respective dates. The first of these appropriations was of lots extending along the south-east side of the highway of Prestwick. The second and third were steadings in the new town of Newton, laid off in regular streets; and a fourth took place during the year 1833 of 48

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steadings in conformity with the original plan of the same new town, which is built upon the land between the more ancient part of the town and the sea. The community authorized the magistrates and council to grant feu rights of the lots divided upon these occasions, and charters were granted accordingly.

Undivided Property of Burgh.

Besides the preceding portions conveyed to, or held by the freemen as if it were their exclusive property, there is still a considerable tract of the Burgh Property undivided, and possessed in common. In the year from 1831 to 1832, the rents of this undivided ground amounted to £134 16*s.* It appears that feus were granted by the community, from the earliest times, of small pieces of ground for building, and, in many instances, the venditions are engrossed at length in the community books. Part of the common property has also been let on tack to several individuals, as will be seen from the chartulary, and the common moor is let at £40 per annum. The lordship on coals also seems to have been claimed and appropriated by the freemen in common; this was a source of revenue at one time very considerable; but latterly it has been comparatively unproductive.

Application of the Revenue of undivided Property.

The coal Revenue, and the rent of the common moor, it is stated by the magistrates, have constantly been divided amongst the 48 freemen as they were received. The other revenues are received by the treasurer, and disbursed under the direction of the community at their discretion, and the amount has always been exhausted annually in improving the lands and in defraying the expenses of management; and, when there was a surplus fund, in divisions among the freemen, usually for the improvement of their lands. A large amount of this common fund, however, was employed about 1776 in building a church within the burgh.

Annual Revenue.

The Revenue of the burgh, for the year preceding Michaelmas 1832, was stated to be,

	£.	*s.*	*d.*
1. Feu duties as above	89	16	6
2. Rents of undivided lands	134	16	0
3. Church seats	212	0	0
	£436	12	6

Annual Expenditure.

There is said to have been applied in Expenditure, under the following heads:—

	£.	*s.*	*d.*
1. Salaries to magistrates, &c.	30	5	0
2. Interest of debt	52	0	0
3. Stipends	160	0	0
4. School salary	40	0	0
5. Repairs on property	65	0	0
	£347	5	0

Debt.

The Debts due by the burgh consist of the following sums:—

	£.	*s.*	*d.*
1. Debts heritably secured	1,100	0	0
2. Debt secured on church	200	0	0
	£1,300	0	0

Taxation. Poor's Money.

The only assessment by the magistrates and council is Poor's Stent. It is levied by a collector named by them, and distributed by the kirk session. It has been 4*d.* per pound of the real rent for 10 years past. All occupiers of houses above £2 are subject to it.

Cess.

The Cess, which is very trifling, is levied by the county collector.

Sett and Jurisdiction.

The council of this burgh consists of two Bailies, one Treasurer, and six Councillors, who are annually elected by the burgesses.

They possess all the Jurisdiction in point of law, which burghs of barony, independent of the superior, prior to 1748, are entitled to claim. But they have only been accustomed to exercise jurisdiction in processes of sequestration for rent and petty breaches of the peace. Even this limited jurisdiction has not extended to above six cases annually since 1820.

Exclusive Privileges.

There are no incorporated trades within the burgh enjoying Exclusive Privileges. But the freemen annually, at the Beltan (May-day) Court held by them, enact, that no unfreeman shall trade or manufacture within the bounds of the burgh without leave. The law, however, has not been enforced for 40 years, all persons being permitted to trade without licence or fees of any sort.

Patronage.

The magistrates and council have no Patronage; but the office-bearers of the burgh, viz., clerk, treasurer, and officer, are appointed by the community of freemen, and such of their eldest sons as are entered as young freemen.

The magistrates and treasurer get £5 per annum each, and the clerk £10 yearly, the officer £5 5*s.* The only fees paid to the clerk and officers consist of 2*s.* 6*d.* on the entry of every freeman.

Church.

Newton was originally part of the united parishes of Prestwick and Monkton. A decreet of disjunction and erection of it into a separate parish was obtained by the freemen of this date. The clergyman is supported out of the seat rents, and by an allowance from the freemen.

15th December 1779.

NEWTON-UPON-AYR.

The patronage of the Church is vested in the freemen, and held in a peculiar manner. The freemen are obliged to elect 13 delegates annually, who have the choice of the minister in case of a vacancy, but nine must concur in presenting a candidate.

Schools.

The magistrates and minister choose the schoolmaster, who has the *minimum* salary allowed by the Act 43 Geo. III. c. 34. The average number of scholars attending the School during the last ten years is 110. The school fees are moderate; and there are private schools, which, along with the academy of Ayr in the close vicinity, afford ample means for educating the children of all classes of the community.

Population and Constituency.

The Population of Newton, by the census of 1831, was 4,020, being more than double the census of 1801. No actual list of the £10 proprietors or occupiers was furnished, but there are 218 occupants of £5 yearly and upwards; and it is computed that about 100 of these have tenements at or above £10 yearly.

Observations of Commissioners.

It is impossible to close this account of the burgh of Newton-upon-Ayr without observing that the rights of the community, as regards the property originally conferred upon this burgh, have, by the successive encroachments of the freemen, been placed upon a very peculiar footing; and it well deserves being considered whether some steps should not be taken for vindicating the public interests against such encroachments, and still more for the prevention of similar encroachments in future.

In so far as the freemen have lately directed their efforts to the conversion of a temporary title of possession,—nowise incompatible with the eventual resumption of the subjects when required for the public service of the burgh,—into a permanent feudal right, which is intended to divest the burgh for ever of all interest in their own estate,—the Commissioners think it may be questioned whether every such usurpation be not illegal, and at variance with the chartered rights of the community.

The following Documents, which have reference both to Ayr and Newton-upon-Ayr, accompany this Report:

1. Evidence taken by the Commissioners at Ayr, October 1833.
2. Printed Abstract of Account of Burgh Affairs, from 1st October 1832 to 1st October 1833.

3—15. Inventory of Papers sent to the Burgh Commissioners on 29th October 1833, with the 12 Articles therein specified, consisting of an Act of King William in favour of the Burgh Annual Accounts, Harbour and Bridge Acts, and other Papers.

16—18. Three Papers relative to Smith's Charity, viz: 1. State of Funds, October 1833; 2. Copy Registered Disposition and Assignation by Captain John Smith; and 3. Copy Extract Disposition, by George Charles and William Cowan, as Trustees of Captain Smith.

19. Taxations of Ayr, 1833.
20. Imposts of the Burgh for 1833.
21. Valued Rent of the Parish and Burgh.
22. Return of Proprietors of £10 and £5 yearly Rent in Ayr, October 1833.
23. Copy Queries to Corporations and Note of Answers.
24. Return by Corporation of Tailors.
25. „ Hammermen.
26. „ Dyer Trade.
27. „ Incorporation of Dyers.
28. Extracts from the Record Books of the Incorporation of Skinners.
29. Printed Copy Report on Ayr Bridge Funds.
30. „ „ as to Application of ditto.
31. Return for Ayr Academy.
32. Printed Copy of the Charter of Ayr Academy.
33. Letter, Rev. Mr. Auld to the Commissioners, 25th October 1833.
34. Statement for the 48 Freemen, Burgesses of Newton-upon-Ayr.
35. Appendix to said Statement.
36. Answers by Magistrates of Newton to Heads of Inquiry.
37. Copy Charter by King James VI. to Burgh of Newton-upon-Ayr, 24th September 1595.
38. Copy Charter by ditto to ditto, 30th June, 1600.
39. Copy Letter, the Secretary to the Commission to the Town Clerk, 9th May 1835.
40. Answers by the Treasurer to the said Letter, 12th May 1835.

JOHN CUNINGHAME,
J. IVORY.

REPORTS

ON

THE BURGH OF BANFF

AND ON

THE TOWN OF MACDUFF,

(BANFFSHIRE.)

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I. BANFF.

(The references on the margin are to the numbers of the Inventory of Documents annexed.)

THE royal burgh of Banff is situate at the mouth of the river Doveran. At one period there was a considerable linen manufacture there, but it is now almost extinct. No manufactures of any importance now exist, but some commerce is carried on. As the principal town of an extensive district, Banff is of some consequence, but it does not seem to be in a state of advancement. The population is upwards of 4,000.

CHARTERS. Tradition has assigned to Banff an origin as a royal burgh, so ancient that the account must be rejected as fabulous. It has, however, authentic claims to great antiquity; for in 1165 William the Lion gave a toft and garden in the burgh to the Bishop of Moray. Robert I. confirmed its privileges as a burgh; but the earliest Charter which was exhibited to the Commissioner, or is believed to be extant, is one granted by Robert II., dated 7th October 1372. By it there are granted "totum burgum nostrum de Banff cum pertinentibus." "Per omnes rectas, metas et diũisas suas cum terra præpositura dicti burgi quæ vocat Cathnelpy, cum croijs et piscarijs aquae de Duverne molendiñis multuris et eorum sequelis cum tollonijs parva custuma et stallagijs cum curijs curiarum exitibus eschetis, cum pascuijs et pasturis moris: moris maresijs, et omnibus alijs libertatibus, commoditatibus, asiamentis rectas, suis boundis et antiquis, ac justis suis pertinetijs quibuscunque adeo libere et quiete plenarie pacifice et honorifice sicut burgum nostrum de Aberdeen per predecessores nostros, Reges Scotorum liberius quietius, plenius et honorificentius ad feodofirmam burgensibus et communitati dict. burgi de Aberdeen conceditur sive datur." The governing charter is one granted by James VI., dated 9th May 1581. This charter proceeds upon the narrative, "Quia nobis et nostri secreti concilij dominis certo constat, burgenses et inhabitatores burgi nostri de Banff per invincibilem Regem Robertum de Bruce et alios nostros nobilissimos progenitores bonæ memoriæ in dicto burgo terris prædiis et piscariis earundem tam in mari quam in aqua dulci de Doverne et in diversis aliis terris," &c.; "ex antiquo infeodatos extitisse. Quemquidem burgum terras et piscarias præpositi balivi consules et communitas ejusdem burgi, non solum his temporibus, sed tempore præterito ultra hominum memoriam particulariter divisas comburgensibus dicti burgi in maximum commodum ejusdem locarunt et assedarunt Quibus locationibus finitis et expiratis proceres circumjacentes commoditatem inde inhabitatoribus devenientem attendentes spe eandem sibi ipsis acquirendi sepe se intendant et in eisdem involuere ac sic rempublicam ejusdem disturbant, quod nulla est quies." Certain lands are then granted, which it would be needless to specify: for, as will afterwards appear, they have, by virtue of express power given in the charter, been alienated two centuries ago. The charter then proceeds, "Omnes et singulas præfatas terras prædia et salmonum dicto burgo spectantes seu juste spectare valentes in dicta aqua de Doverne et in mari eidem adjacenti infra libertatem ejusdem jacentes." This clause is important, as a claim made by the burgh to valuable salmon fishings is founded on it. Full power and permission are then granted to the magistrates and community of the burgh to feu the lands, fishings, and other property belonging to the burgh, and to their heirs male, if burgesses, under certain restrictions and conditions also specified, one of which is, that if any resident burgess, acquiring a feu under the power and faculty conferred, shall alienate it to any other than to a resident burgess, it shall revert to the town. When the King attained the age of 25, this charter was renewed.

By these charters the ordinary rights of customs and markets are conferred.

ARTICLE I.

Property, Revenue, Administration, &c.

Sec. 1.—*Property.*

Nos. 2, 19, 20. The property of the burgh consists of lands and houses, salmon fishings, feu duties, public buildings and markets.

Enclosed Lands and Commons. I. The value of the lands was at Michaelmas, 1833, stated to be £2,014 10*s*. The following statement exhibits the different subjects.

New Lands, consisting of five small fields, No. 1 to 5, were let by public roup, and taken by George Robinson, Esq. for 19 years, at the following rents, viz.:

	£	*s.*	*d.*	£	*s.*	*d.*
Nos. 1 and 2 - - - -	10	12	0			
3 - - - -	12	0	0			
4 - - - -	10	0	0			
5 - - - -	12	12	0			
				45	4	0

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		£	s.	d.
	Brought forward - - -	45	4	0
	The present tenant paid the preceding one for the dykes, for which he is to be paid at the end of the lease.			
	These fields, for the remainder of Mr. Robinson's lease, are now let to Messrs. James M'Killigan and Co., at the yearly rent of £29. The burgh consequently has a claim on Mr. Robinson's estate, for the difference of rent or loss thereby sustained.			
St. Catharine's Green.	A small piece of ground enclosed in the Seatown road, called St. Catharine's Green, set yearly and last year at - - - - - - - - - -	0	9	0
Park at Clayholes.	A small field at Clayholes, partly enclosed, let formerly at £7 per annum, but was let in spring 1824, to Alexander Lion, carter in Banff, on a lease of 19 years, at the yearly rent of - - - - - - - - - -	5	1	0
Ground above the Links.	A piece of Ground above the Links, let by public roup on lease (27th November 1819) for 19 years, and taken by George Robinson, Esq., at the yearly rent of - - - - - - - - - - - - - -	3	3	0
	The remainder of Mr. Robinson's lease was taken by Alexander Forsyth, at the yearly rent of 32s.			
Unenclosed Lands.	The following Unenclosed Grounds are let yearly, the rents of which vary considerably, according to circumstances, but at the last roup of them they were let as follow, viz.:			
	Links - - - - - - - -	£. 7	s. 10	d. 0
	Battery Green - - - - - -	5	17	0
	Waterside and Bar - - - - -	1	2	0
	Clayholes and little Tumblers - - - -	6	0	0
		20	9	0
		£74	6	0
	If the town should increase in population, these lands might be feued or sold to great advantage, and would produce a large free or yearly feu duty to the burgh; but at present they may be valued at 20 years' purchase of the rent -	1,486	0	0
	There is no measurement of those lands among the town's records, except that of Gallow-hill.			
Ground about the shore and harbour.	There are different small pieces of Ground which have been occasionally let, sometimes for three years, and sometimes from year to year. Since the commencement of the new Harbour, the greater part of the ground was claimed by the harbour contractor, while the operations were going on, for the purpose of depositing the materials wanted for the work, so that there has been little rent drawn except the sum of £1 8s. 6d., which at 20 years' purchase is - -	28	10	0
	The value put upon the grounds occupied as herring-curing stations at the shore was about £13. But the occupants refuse to pay.			
Battery Green.	The Battery Green supposed to be worth - - - - - - -	500	0	0
	Value of town's property in lands, as now recited, is - -	£2,014	10	0

II. The house property let to tenants, and therefore exclusive of the public offices, consists of the following subjects:

Meal Houses and Weigh House. First.—Meal Houses and Weigh House, including a set of weights and measures, are valued at £186 15s. 4½d. From the buildings, upwards of £8 of yearly rent is drawn; and as the situation of the markets has been changed, there is an extensive area for the use of the public.

Old Public Warehouse. Second.—"The Old Public Warehouse," valued at £200, is let as a large coal cellar, at £7 10s. of yearly rent.

Dwelling-house, &c. Third.—Dwelling-house, vaults, &c. connected, lying at the shore, are valued at £1,100, including repairs and expenses of title. A part of this property, which is let, yields upwards of £30 of rent. But the public warehouse situate in it, which is large and commodious, together with the shore-master's counting-room, yield no rent, as the tacksman of the shore and harbour dues possess them rent free.

Fishermen's Houses at Seatown. Fourth.—Certain Houses at Seatown, occupied by various Fishermen as tenants, and a large space of ground adjoining unfeued, are valued at £550. It is stated that, as the houses are let particularly low, for the encouragement of the fishers, the value of them cannot be fairly estimated by the rents, and, therefore, they are valued at what they cost, with the exception of one house, which has been reckoned at little more than the value of the materials.

Battery. Fifth.—The guard-house, and officers' houses at the Battery, are now let to Government upon a lease of 19 years, for the Preventive Service Establishment, at £20 per annum; but with an option to the town to resume possession at any time, in case they shall be needed for the purpose of defence. The building cost the town originally £200, and it underwent a substantial repair in 1820, to which the burgh contributed one year's rent. The tenant has a right to the sloping bank between the building and the road. The subject is said to be moderately valued at £300.

Painted Effie. Sixth.—From houses situate at the public washing green called "Painted Effie," and from

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the washing green itself, a rent of £15 is drawn. The houses were repaired in 1830. The value of the subjects at 25 years' purchase is stated at £375.

The total value of the property under this branch is £2,711 15*s.* 4½*d.*

III. The Public Buildings, from which no rent is drawn, are the following: Public Buildings, &c.

First.—The Church, it is stated, cost originally £1,961 18*s.* 7*d.*; but different seats having been sold, to the amount of £676 3*s.* 9½*d.*, the present value (including furniture to the amount of £16) is estimated at £1,301 14*s.* 9½*d.* Church.

Second.—The estimated value of the Town House and Gaol, including the spire, and various articles of furniture, is £2,206 6*s.* 3½*d.* The building, exclusive of the spire, (which is estimated at £225,) cost the burgh £2,869 13*s.* 2½*d.* But towards the expense there was applied the sum of £1,000, which was left by the late George Smith, of Bombay, for the purpose of building an hospital. Thus the expenditure by the burgh was £1,869 13*s.* 2½*d.* On the reasons assigned for this application of the bequest, some observations will be made hereafter. Town House and Gaol.

Third.—The Houses on the Plainstones, north of the town house, occupied by Mr. Smith, and the town clerk, and dean of guild's officer, are estimated at £300. Houses on the Plainstones.

Fourth.—The different Reservoirs and distributing Cisterns belonging to the burgh are 12 in number, and, along with their appurtenances, are said to be very moderately valued at £1,000. Town's Wells.

Fifth.—The value of the Shambles, exclusive of the stance, is stated at £211 13*s.* 2½*d.* Shambles.

Sixth.—The sums expended on the New Market Place amount to £1,541 15*s.* 1½*d.* £80 of additional rent have, it is said, been drawn in consequence of the improvement effected by building this market. New Market Place.

Seventh.—The School House is valued at £353. School House.

The total estimated value under this branch is £6,914 9*s.* 5*d.*

IV. The Feu Duties amount to £98 11*s.* 3½*d.*, which, at 20 years' purchase, are worth £1,971 5*s.* 5*d.* Feu Duties.

V. It is said that a most important addition to the property of the burgh may arise from Salmon Fishings, which addition cannot at present be fully appreciated. The burgh, it is alleged, has a right to the sea fishings, from the mouth of the Doveran westward to the burn of Boyndie, and has also a right to certain fishings in the Doveran. But at present the burgh is interdicted, by the Earl of Fife and his trustee, from fishing to the east of the Fauchie rock, and the rights form the subject of a depending law-suit. The claim made by the burgh is rested upon the charters formerly cited. The Commissioner has examined the record; but details relative to the suit cannot, for obvious reasons, be introduced here. The salmon fishing from the west of the Fauchie rock to the burn of Boyndie is now let out at £220, which, at thirty years' purchase, gives a value of £6,600. Salmon Fishings.

VI. The burgh subscribed towards making the road to Portsoy the sum of £1,000 0 0 Turnpike Roads.
„ „ „ Marnoch and Turriff 650 0 0

£1,650 0 0

In June 1833 a dividend of £40 was received from the Portsoy road Trustees; and in 1828 a dividend of £59 9*s.* 4*d.* was received from the Trustees of the Marnoch road. It is stated that there is difficulty in putting a value on this branch of the burgh property; but as these roads have been lately thoroughly repaired, the value, it is said, may be estimated at £1,000. The chamberlain stated that he considered this valuation as too high; and that the shares could not be available to that amount. Although it may occasionally be expedient that burghs should invest money under road trusts, in order to forward commercial facilities, yet it is a mode of investment which must, in general, be so disadvantageous, that the reasons for adopting it ought always to be very clearly developed.

VII. There are some articles of Miscellaneous Property which cannot be specifically classed, viz.: Miscellaneous Property.

	£.	s.	d.
First.—The street dung, let, for 1833, at £8, and which is valued at twenty years' purchase	160	0	0
Street lamps, valued at	80	0	0
Weights, measures, &c. in dean of guild's office	136	11	8
	£376	11	8

VIII. The Debts due to the Burgh are stated as follow: Debts due to the Burgh.

First.—Sum due by harbour fund, bearing interest at 4 *per cent.*	700	0	0
Second.—Sum advanced to the town-clerk (per his letter of acknowledgment) to enable him to carry on the defence in "Thomson's case," conformably to accounts rendered at Michaelmas, 1830	331	18	5
Third.—Balance upon the accounts of the late Mr. Robertson, town chamberlain, as at 2d Nov., 1829	760	13	7½
	£1,792	12	0½

The sum under the last *item*, it is said, is subject to deductions, and may receive additions. On the two last articles some observations will be made hereafter.

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The total estimated value of the burgh property is thus, £22,961 3*s.* 11*d.*

Although the harbour is the property of the burgh, and is not under the government of statute, yet the management of its affairs is separate from that of those of the burgh. The results of the investigation relative to it will, therefore, be stated separately.

PROPERTY OVER-RATED.

It is always difficult for those not intimately acquainted with particular property to determine whether the value put upon it is, or is not, too great. But, in the present instance, both the description of the property valued, by which the aggregate amount is made up, and the value put on many of the subjects themselves, are so peculiar as to require observation.

First, There is included in the estimate, property, a great part of which could not, it is deemed, be available in law to creditors, and no part of which could be so in fact. For churches, gaols, and market-places form a kind of property which could not be turned to account. The valued amount of this description of property is £6,914 9*s.* 5*d.*, and, as it will afterwards appear that the debts amount to upwards of £14,000, when this sum is deducted the amount of property could hardly meet the debts, even if the other portions of it had not been overvalued. But,

Secondly, There is an obvious over-valuation. In some instances the value, when compared with the rent, is excessive; as, in urban property, the annual return is uniformly presumed to be proportionally greater than the price which could be obtained. In other instances the value is calculated by taking the highest supposable number of years' purchase; which course can never be safe. A considerable value is likewise put upon moveables, necessarily subject to gradual deterioration: and even the street dung is valued as property, at a certain number of years' purchase. Two of the sums owing to the burgh are of a questionable nature, and the debt due by the harbour trustees cannot be deemed to be very well secured.

SEC. 2.—ALIENATIONS.

ANCIENT ALIENATIONS.

About the year 1470 the burgh appears to have been under embarrassments. At that time it was held by the public functionaries that they had no power to increase their revenues, except by leasing their property. The magistrates, therefore, without fraud, and upon their "*great aith*, with consent of all and sundry neighbours of Banff," let out to certain burgesses, for 19 years, the whole salmon fishings, consisting of 12 nets, for the "infefting and foundation makkin of a perpetual chaplenary, to sing in the peil heife of the burgh, for our sovereign lord the king and queen, their predecessors and successors: for all Christiane soules: for the theiking of the kirke with sclate, and the bigging of the tolbuthe, and for quhat the burgh has not substance."

It is believed that similar leases were granted until 1581, when there was obtained the charter, formerly cited, giving power to feu to the resident burgesses and their heirs male. In 1595 the provost, bailies, and certain other persons, were appointed commissioners to carry the power into execution. The instructions to them bear that, "because of the warres and troubles, the darth of the country and scantiness of victual, with exorbitant stents and taxations for supporting the warres, the public warkes, and uphading of the kirk, tolbuthe, and calsies, &c.; for remeid whereof this empowers to set, sell, and few the common land and salmon fishings of the burgh to merchant burgers and actual residenters." By virtue of these powers these commissioners did alienate, for a small feu duty, the greater part of the burgal-lands and salmon fishings. The limitation in the charter, that the alienations should be made only to resident burgesses, and their heirs male, either never had been in observance, or quickly fell into disuse. Nor does the forfeiture emerging if a burgess should alienate to other than to a resident burgess, appear to have been operative. The greater part of the property was acquired by neighbouring proprietors, including the families of Fife, Findlater, and Banff.

Modern.

The last alienation of any importance, which has been traced, was in 1783, when the *provost* purchased about 20 acres of the burgh lands, for 20 years' purchase of a feu duty of 1*s.* 6*d.* *per* acre.

Previously to 1823 there had been sold two houses of inconsiderable value. The lands of "Seatown" had also been feued in lots, conformably to a plan. These transactions were made under the authority of Head Courts; and the proceeds were applied to the harbour and other public purposes.

SEC. 3.—*Revenue.*

REVENUE.
No. 2, 4.
No. 17, pp. 12, 13.

The Revenue of the burgh, for the year ending Michaelmas 1833, is stated at £1,427 19*s.* 2*d.* The items are,

No. 18, 20.

	£.	*s.*	*d.*
To amount of stent, or cess, for year ending Whitsunday 1833	482	9	11
Rents, feu-duties, &c. payable at Martinmas 1833, conform to rental	719	0	0
Cash, being dividend from the burgh's subscription to Boyndie turnpike road	40	0	0
Cash, being interest of £700 advanced to and due by the harbour trustees to the burgh	28	0	0
Amount of incidental income, conform to accounts	35	5	0
	£1,304	14	11

The difference between this sum and the sum of £1,427 19*s.* 2*d.* is made up thus:

Amount of arrears of cess, uncollected at Michaelmas 1832	60	8	7
Arrears of feu duties, rents, &c. at the same period	62	15	8
	£123	4	3

The cess, which at first sight appears to be an extraordinary article of revenue, will be explained hereafter. The "incidental income" consists of sums received from the Commutation Road Trustees, towards repairs of roads within the burgh; of the dues of an "extranier" burgess; and of "waring" on sale of books. The nature of most of the other *items* has been shown under "Property." The petty customs are not separately stated in the accounts, but are massed with the rents. An increase of £200 a-year was gained in 1831 from the salmon fishings in the sea. For several years previously, the income was about £1,000. No. 17, p. 12.

Sec. 4.—Expenditure.

The Expenditure, for the year ending Michaelmas 1833, was as follows:

	£.	s.	d.	
Balance due the chamberlain at Michaelmas 1832	114	3	3	No. 2, 4.
Miscellaneous payments made by him during the year, to Michaelmas 1833	32	5	7	No. 17, pp. 14, 16.
Printing, advertising, newspapers	12	12	9	No. 18, 20.
Street, cleaning and repairs of	34	0	8	
Water, superintending, and repairs to wells	15	5	8	
Street lamps, lighting with gas, for season 1832-33	105	0	0	
Town clock, keeping of, and repairs	5	14	0	
Bridge of Banff, annual contribution for upholding	5	0	0	
Minister's stipend payable by burgh, crop 1832	6	7	8	
Manse allowance, in lieu of new manse	2	8	0	
Church, advances on account of repairs to	2	0	7	
Insurance on property	13	13	1	
Repairs of property belonging to the burgh	35	1	8	
Rents, taxes, and feu duties	60	11	3	
Salaries to public servants	247	18	4	
Salmon fishings, on account of	6	12	0	
Interest of public debts	615	5	1	
Expense of criminal prisoners and proceedings	22	3	9	
Total expenditure on Revenue account for the year ending at Michaelmas 1833, including balance on last year's account	£1,336	3	4	

The salaries will be specified under the article "Patronage." None of the other articles require observation.

In the abstract of the chamberlain's account of charge and discharge, there are, besides the revenue and expenditure, the following entries:

On the Debit Side.

	£.	s.	d.
To cash, being amount of treasurer's order on the burgh cash accounts at the National Bank, conform to order and account	200	0	0
To amount of new debts contracted for money, borrowed from sundries on bills, conform to state thereof and accounts	464	0	0
To balance due the chamberlain at Michaelmas 1833	116	0	0

When these sums are added to the revenue, (£1,427 19*s.* 2*d.*,) the total of the charge is £2,207 19*s.* 2*d.*

On the Credit Side.

	£.	s.	d.
By cash paid expense of improvements and additions to property, conform to orders and vouchers	58	2	8
By cash paid relative to salmon fishings, conform to orders and vouchers	40	6	0
By cash, old debts paid off, or bills discharged, conform to accounts, discharged documents, and vouchers of debts	644	15	11
By amount of arrears of cess at and preceding Michaelmas 1833, conform to list thereof	66	11	11
By amount of feu duties at and preceding Whitsunday 1833, conform to ditto	13	18	4
By amount of rents, ditto, ditto, conform to ditto	48	1	0

These sums, when added to the amount of revenue, (£1,336 3*s.* 4*d.*) give a total on the discharge side of £2,207 19*s.* 2*d.*,—thus making the charge and discharge balance.

Although the entries under the charge were, necessarily, inserted as consisting mainly of monies for which the chamberlain had to account, they must carefully be kept separate from the revenue. For so far are they from coming under that denomination, that they prove the contraction of new debt.

The entries on the discharge side consist, *first*, of extraordinary expenses, of a nature which may not again occur; *secondly*, of debts paid off to such an amount as more than balances the new debts contracted; and *thirdly*, of arrears, which are considerable, and which ought speedily to be recovered.

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Sec. 5.—Debts.

DEBTS. The total amount of the Debts at Michaelmas 1833 was already incidentally stated to be £14,298 3*s.* 9*d.*

Progressive increase of Debt. A rapid increase of Debt has taken place within the last ten years. In 1763, the debt was only £20, which was soon paid. About 1783, a debt of £1,700 had been incurred, and from that time the amount has increased progressively. During the years from Martinmas 1823 to Michaelmas 1831, the increase was nearly at the rate of £700 a-year. At the latter period, the total amount was £14,193 10*s.* 10*d.*; so that there has been a very small increase since that date. The debt has been contracted for public purposes, unquestionably of a beneficial nature, as the erection of the new market place and slaughter house, and the acquisition of other property. In consequence, the ostensible property of the burgh has been augmented in the same *ratio* as the debt. But the Commissioner agrees in opinion with a committee of burgesses, that all further undertakings requiring money to be borrowed by the magistrates should cease.

No. 17, p. 5.

Sec. 6.—Disputed Claims.

DISPUTED CLAIMS. There are certain disputed claims, which must be shortly noticed.

No. 17, pp. 8, 9. No. 16, pp. 4, 5. First.—The sum of £331 18*s.* 5*d.*, as one of the *items* of debt. This sum consists of the expenses of part of a suit which originated in certain proceedings for compelling an unfreeman to take out his freedom. An agreement was entered into between the magistrates and certain traffickers within the burgh, by which the latter obliged themselves to relieve the community of all liability. A committee of burgesses were of opinion that the sum in question ought not to be charged against the community. As the community, being primarily liable, made payment, and as its claim is that of relief merely, the charge forms a proper entry in the chamberlain's accounts. Whether the claim of relief can be made effectual, is a question on which it is not the duty of the Commissioner to give an opinion.

As to Costs of a Lawsuit.

No. 16, pp. 4, 5, 6, 7. Secondly.—There is a dispute between the town clerk and the community relative to important *items* in his accounts. The amount of them was £230; and by an act of council of 3rd October 1833, an agent was appointed by the burgh to defend them against this claim in a submission which has been entered into. A part of the charge objected to consists of the clerk's fees for professional trouble in conducting the suit above mentioned. Objections were also stated to his charge (of about £100) for returns made under authority of Parliament, and for drawing up a petition by the magistrates relative to the Reform Bill. It was maintained that it was incumbent on the clerk to furnish the returns, as part of his official duty. This, it was represented to the Commissioner, involved a question of general importance. On the one hand, it was suggested that it was hard that the burgh should be burdened with payment of a charge for documents intended for national purposes. On the other hand, it is said that where the salary of the town clerk is small, as in the present instance, (£8 6*s.* 8*d.*,) it would be unjust to compel him to perform gratuitously such extraordinary duties. In no other instance did the Commissioner find any hesitation relative to the town clerk's claim for this extraordinary duty.

As to Accounts of Town Clerk.

No. 17, p. 6.

As to arrears of late Chamberlain. Thirdly.—In the accounts, an arrear of upwards of £760 13*s.* 7½*d.* is stated as due by the late chamberlain of the burgh. These arrears arose in consequence of the former chamberlain having become bankrupt, when he was owing the cess or stent of nearly two years. He always had in his hands one year's amount of cess. For example, the cess due at Michaelmas 1830, was not accounted for till Michaelmas 1831. Deductions are claimed on the part of the representatives. In addition to the amount already stated, there is said to be a claim by the burgh to be relieved of a debt of £100, constituted by a bill which he had accepted as chamberlain, and for which, notwithstanding circumstances which created doubts, it was deemed that the burgh was liable. An investigation had been suggested by a committee of burgesses; but the Commissioner could not discover that it had been made.

Sec. 7.—Administration.

The Administration may be divided into Ordinary and Extraordinary.

ORDINARY ADMINISTRATION. First.—The Ordinary Administration is in general correct. Monies are borrowed by authority of an act of council, but which does not set forth any particular purpose for which the loan is effected. When any public work or cause of expenditure is in contemplation, the Head Court authorizes the work to be performed, but not monies to be borrowed, which is done by the warrant of the magistrates and council alone. The property of the burgh is let by public auction, after advertisement; and acts of council form the warrants. The only important property—the salmon fishing—is let upon lease, on the usual conditions, in terms of minutes of council, dated 10th and 17th October 1832. The duration is for three or seven years; the break being at the option to the lessee. No formal lease had been prepared: but it was said, that of course it would be so, under the professional advice of the town clerk, as he is always consulted by the magistrates and council. These fishings, as formerly mentioned, are claimed by the Earl of Fife, who has obtained an interdict, to a certain extent, against the burgh. With relation to any other portions of the fishings, the lessee, under the order of the Court of Session, keeps an account of the fish caught. The law proceedings are conducted under the authority of minutes of council and of the Head Court, which will hereafter be described. The cause was remitted to a jury; but there had been no trial, by reason of conferences for a settlement.

Mode of borrowing, letting, &c.

No. 3, p. 10.

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Letting of Common Good.

What is denominated the "Common Good," is Let annually, as a matter of course, by exposure to public roup, in presence of one of the bailies, after intimation by tuck of drum, and proclamation at the neighbouring parish churches. The "articles of sett" are engrossed in the minutes of the burgh court. A record was exhibited, commenced by the town clerk in May 1831, in which the subjects thus let, the dates of letting, the duration, and the rents, are engrossed in separate columns; to which there is prefixed an obligation on the lessees to pay those rents, which obligation is subscribed by them. The subjects consist of small portions of pasture, street dung, and of one or two shops, all of considerable value. The petty customs are let upon lease for one year, and the lessee grants to the chamberlain (a practice introduced three or four years ago) a bill, subscribed by several persons of known solvency.

Minute Book and Chartulary.

The minutes of council, and those of the head court and burgh court, and a chartulary kept by the town clerk, were found to be regular and accurate.

Mode of conducting pecuniary Transactions.

No. 4, pp. 1, 4.

Books kept.

There is a nominal treasurer, who is a member of council; but the pecuniary transactions are conducted by the chamberlain. Ordinary disbursements are made by him; but extraordinary by order of council. Minutes of council, directly, and indirectly those of the head court, form the warrants for extraordinary transactions; as loans, securities for debt, contracts, and similar obligations. The principal book kept by him is the ledger, which is made upon the form of charge and discharge. The charge consists of cess, rents, feu duties, and money borrowed. The discharge consists of the regular annual expenditure, of debts paid off, and property acquired. The ledger is framed, *first*, from the rental book of the burgh, as made up half-yearly by the town clerk, as the charge according to which the chamberlain is to collect and account; *secondly*, from a private cash-book kept by him for his own security and satisfaction; but which is intended to relate solely to the affairs of the burgh, and which, with a few trifling exceptions, contains no entries of his private transactions: *thirdly*, from the vouchers of monies paid and disbursed.

Banking Account.

The burgh has a cash credit with the national bank for £1,000, which is kept in name of the treasurer, but is operated upon by the joint order of him and the chamberlain. The revenues of the burgh, and monies borrowed, are paid indiscriminately into this account, and drawn out indiscriminately. But it is only the larger *items* of revenue which are so dealt with; for the ordinary *items*, as feu duties, (which are received almost daily by the chamberlain,) are paid by him into his private account, upon which he has to draw frequently for the purposes of current expenditure. The balance of this account was £131 4*s*. in favour of the chamberlain; and at no time has the balance ever been turned against him. The present chamberlain, contrary to the previous practice (already stated) always accounts for the current year's cess or stent, during the current year.

Auditing of Accounts.

No. 4, p. 3.

No. 3, pp. 11, 12.

The procedure relative to the auditing of the accounts is regular. They are made up from Michaelmas to Michaelmas. About the end of September, or beginning of October, they are laid by the chamberlain before the magistrates and council, who appoint a committee to examine them, consisting of two or three merchant councillors, and the deacons of the Corporations. The committee immediately examines them, and afterwards reports to the council. The accounts are then made up, in terms of the Statute 3 Geo. IV. c. 91., and are deposited with the town clerk, until the first Head Court, which is held annually on the 31st December, when they are laid before the burgesses and other inhabitants for examination. The accounts are engrossed in a record, and an abstract is printed and circulated every year. Inspection of them has been asked but only once. In March 1833 objections were lodged for the convener of the incorporated trades and others, to which answers were made on the part of the council. No further proceedings appear to have taken place.

The accounts have not been regularly docqueted. Those for the last three years were examined by the Commissioner, and no docquets were found. The chamberlain declared, that this must have arisen from the mutual confidence of the parties, and from the known public examination. The Commissioner could not ascertain whether the committee of audit, or the magistrates, were considered as the parties who should docquet; but the former, it is presumed.

Extraordinary Administration.

Head Court.

No. 54.

No. 56.

No. 16, and No. 3. pp. 3, 6.

Secondly.—What may be termed the Extraordinary Administration is vested in the "Head Court of Burgesses," to which reference has been occasionally made. It is matter of notoriety, that Head Courts were an integral part of the constitution of the royal burghs of Scotland. In the charter of Robert II., formerly cited, the constitution and privileges conferred by him upon Banff are said to be similar to those which had been conferred upon Aberdeen. In Banff the institution has remained in full vigour; and, as will appear under the article "Taxation," exercises large powers. The stated day of holding the court is upon the 31st of December, but it holds sittings whenever occasion requires. In one instance it sat on the 8th of April (1809), for the purpose of separating the management of the affairs of the harbour from that of the other departments of the burgh, and for sanctioning tables of harbour dues. In another instance it met on the 27th of December, for the purpose of discussing a reference made by the council regarding a contemplated investment of capital; and also of taking into consideration a motion for the appointment of a committee of inquiry, the proceedings of which will be immediately noticed.

Mode of holding Court.

The Court is held by the Provost and Bailies, and is "lawfully fenced." The minutes then set forth, that "the said day being appointed for holding the said Head Court for imposing the cess and other public burdens and taxations of the said burgh, according to the annual custom and practice thereof, and that for the service of the year from Whitsunday eighteen hundred and thirty-two, to Whitsunday eighteen hundred and thirty-three; and public inti-

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mation of the same having been duly made by tuck of drum through the burgh, and at different times, and for several days, calling upon all heritors, burgesses, and others, liable to give suit and presence thereto, that none might pretend ignorance; and the after written court-roll having been called over three several times, and the persons therein named being present or absent, as marked against their respective names, and the absents excused."

The court-roll, consisting of all the heritors and burgesses within burgh, is then inserted.

When the court has been summoned for a special purpose, the minutes, of course, correspond.

Powers of Administration.

Although the only ostensible purpose of the annual meeting is for imposing the assessments, the court exercises other powers, which are the necessary concomitants of taxation. As it grants the supplies, so it claims the right of inquiring into the disposal of them. The accounts of the burgh are examined. All the transactions of the magistrates and council are investigated, and the power of approving or disapproving of them is exercised, as formerly stated. The Head Courts authorize public works to be done, or property to be purchased, but do not directly give warrants for borrowing money. What effect would result from a repudiation of the proceedings of the council has not been ascertained, as hitherto they have been approved of by a majority.

In strictness, the court consists of the heritors and burgesses only; but the other inhabitants are allowed to be present, although it does not appear that they are entitled, or even permitted, to vote or take any part in the discussions. The vote of the majority of the heritors and burgesses present, however small the numbers may be, or however close the division, is held to be binding, not only upon the minority, but upon the absent heritors, burgesses, and inhabitants.

Committees of Head Courts.
No. 16, p. 1.
No. 56.

Not only does this Court act in a body, but it also appoints Committees, with power to examine and report. This has been a practice of considerable standing, as is proved by the reports appearing on the records. At a Head Court, 27th December 1831, (already noticed,) a committee was appointed with instructions to examine the burgh accounts for the period from Michaelmas 1823, to Michaelmas 1831. In conformity with directions from the magistrates, the whole books and documents were laid before the committee, by whom they were minutely inspected. The report, which is a valuable document, has been produced. Details are given relative to the property, revenue, and debt, and the causes of the increase of the last. The expenditure is investigated; objections are made to certain charges, and savings are suggested. The affairs of the harbour committee or trust are likewise examined, and the consolidation of the management of them, with that of the other concerns of the burgh, is considered, but not recommended. Suggestions for improvements on the burgh property, and also for the institution of a sinking fund, are made. This report was approved of at a subsequent Head Court, and inserted in the minutes.

ARTICLE II.

Taxation.

Taxation.

Powers of Head Court.
No. 1, pp. 1, 6.
No. 3, pp. 3, 6.
Nos. 54, 56.
No. 54, pp. 2, 3.

The "Magistrates and Council" do not exercise any power of imposing or levying any local taxes or assessments; but powers to that effect are exercised by the "Head Court." As formerly noticed, the direct purpose of holding the stated meeting of the court is for imposing the cess and other public burdens and taxations "for the service" of the ensuing year. Accordingly, the minutes of 1832 bear, that "the magistrates and members of the said Head Court present, and who are marked as such in the said roll, resolved, and do hereby unanimously resolve and agree, that the sums of money after-mentioned as the King's cess, and other public stents and taxations of the said burgh, for the year foresaid (1833), be, and the same are hereby accordingly stented and imposed upon all lands, fishings, houses, tenements; and upon trade and merchandize; and upon the incorporations; and upon residenters and inhabitants within the said burgh and liberties thereof, for the service of the year foresaid, according to the annual practice and custom of the said burgh, uniformly used and observed, to be apportioned or levied and collected from all subjects and persons liable in the payment of the same, in the usual form and manner, and conform to the stent roll to be made up and given to the collector for that purpose: and the magistrates and council are to name stent-masters for apportioning the same accordingly; and which heads of cess and stent, and taxation so agreed to be voted and imposed, are, as written on the following page, amounting to the sum of £481 17*s.* 6*d.* sterling." A specific state of the appropriation of the monies voted is annexed to the minute. The sum imposed has been the same for many years.

No. 3, pp. 3, 4.

The court is deemed to possess the power of thus imposing a tax for any purpose whatever connected with the burgh, and to any amount; and such, accordingly, has been the practice. For example, an assessment for cleaning and lighting, or erecting public buildings, would be deemed to be included. In a word, this court would, by its own authority, impose those assessments, for which, in other burghs, recourse would be had to an Act of Parliament. As will immediately be shown, legal compulsitors were applied for enforcing its votes or decrees.

Mode of Imposition.
No. 1, ut supra.
No. 15. pp. 2, 3.
No. 25.
No. 50, pp. 1, 2, 3.

The whole of the "taxations" are, in practice, styled "cess or stent." The general amount voted is apportioned by stent-masters upon the several classes of the community. Those stent-masters are named by the magistrates and council, and are generally five merchants and traders; the six deacons; three or four inhabitants for the solicitors, writers, surgeons; three or four for the vintners and fleshers; two or three for the carters and horse-hirers; and the like number for the workmen and labourers. The different stent-masters are chosen from their respective classes, and care is always taken to name a proportion of new individuals

every year, so as to make the nomination as general as possible. The stent-masters at their first meeting allocate the whole cess as follows:—*First,* One-half upon the real property within the burgh; *Second,* One-fourth on trade and merchandize; *Third,* One-eighth on the incorporated trades; and *Fourth,* One-eighth on the other inhabitants. For many years there has been no variation upon the distribution.

On Real Property.

The cess upon real property is laid on the different subjects liable, according to the valuation roll of the burgh. No complaint was made relative to this branch.

On Merchandize.

The imposition is laid upon merchandize according to the "waring," or amount of purchases by each trader, to which he must make oath; and, if he do not, he is taxed according to the discretion of the stent-masters, who adjust the amount by combining the value, according to the best of their belief, of the trader's imports with the average of the amounts which he had returned or been stented for during the three or four preceding years. The amounts returned upon oath ordinarily somewhat exceed the actual amounts, as, in order to guard against the possibility of omission, a small addition is made. In a report by a committee of the guildry, approved of by that body, and laid before the Commissioner by a deputation, strong complaints were made against this mode of levying the cess. It was said that "the guildry find the mode of levying the cess and taxation within the burgh a very serious grievance, arbitrary in its principle, and most partial and inquisitorial in its effects." That the means used for exacting information are "manifestly unjust," and that "the powers assumed are illegal." According to the parole evidence, the mode "is very generally and justly disliked." The guildry "accordingly crave redress by legislative or other competent authority; and for this purpose they would humbly recommend a parliamentary enactment, directing the cess and taxation within the royal burghs of Scotland to be levied by a rate on real property and rents, so that every man may pay according to his means, ascertained from the tax-roll."

Complaints.

On "Trades." No. 25.

The one-eighth imposed upon the trades, being £60 4*s.* 9*d.*, is divided amongst themselves according to the number of masters, journeymen, and apprentices belonging to the whole six trades.

	£.	*s.*	*d.*
The Hammermen - - - - - - -	19	8	5
Wrights - - - - - - -	12	5	10
Shoemakers - - - - - - -	13	15	4
Tailors - - - - - - -	8	7	4
Coopers - - - - - - -	4	18	4
Weavers - - - - - - -	1	9	6

The Corporation of Wrights apportion their *quota* by imposing different rates on masters, journeymen, and apprentices. For 1833-4 they imposed on masters 6*s.* 9*d.*, on journeymen 3*s.* 8*d.*, on apprentices 3*s.* The tailors apportion their *quota* nearly in the same way; masters 5*s.*, apprentices 3*s.* 1*d.* The masters pay for their journeymen and apprentices, unless they are householders. The other four Corporations apportion their *quotas* equally, (4*s.* 11*d.* each,) without distinguishing journeymen or apprentices. The rate is imposed on the employment of each craftsman, whether apprentice or journeyman. No complaint was made on the part of the Corporations.

On other Inhabitants.

The assessment is made upon the other inhabitants according to the discretion of the stent-masters.

Tax unpopular.

Although no formal complaint was made, the Commissioner observed that the nature of the tax, as well as the mode of imposing it, is unpopular, and that an assessment on real property, proposed by the guildry, would be more acceptable.

Mode of enforcing Payment. No. 1, pp. 4, 5. No. 3, p. 5.

After the lists are made up they are combined into a stent roll, which, being approved by the council, is given out to the collector, and a warrant for recovery by diligence is appended. Numerous warrants of this nature were exhibited on the records; they were not mere matters of form, but were regarded as legal compulsitors, and as such they had been used. The town clerk declared "that it consists with his knowledge, that execution by poinding and sale has proceeded upon the said warrants;" "and mentions particularly the case of the Earl of Fife, which occurred some years ago," the procedure in which he exhibited. The enforcement by diligence seems uniformly to have been acquiesced in, as no instance of a suspension was traced.

In consequence of this acquiescence, there has been no opportunity of trying the legality of such warrants. With one or two exceptions, none of the inhabitants of any class (and the Commissioner's inquiries were extensive) doubted the legality of the assessment, although the mode of levying it is disliked. In the present burdened condition of the burgh, the amount (nearly £500 a-year) is indispensable towards keeping up their establishment, and paying the interests of their debts.

Amount of Cess.

The Amount of Cess paid to Government is £39. The purposes to which the residue is applied have been already explained.

Petty Customs.

The Petty Customs are of the same nature as in other burghs. No complaint was made regarding them; and it appeared to the Commissioner that it was a branch of the revenue which did not attract attention.

No Exemption from Taxation.

None of the burgesses or inhabitants are exempted from Taxation. Although one claims

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exemption on the ground of his being a member of the college of justice, his name has always been continued on the stent-roll, but payment has not been exacted.

The impositions arising by reason of exclusive privileges will be detailed under that article.

ARTICLE III.

Jurisdiction.

Jurisdiction. Territory. No. 1, p. 7. No. 3, p. 6. No. 14. pp. 5, 7.

The territory over which the Jurisdiction of the burgh legally extends is said not to be well defined. But in practice no jurisdiction has for a long time been exercised, "except from the Burnmouth of Boyndie, across the Gallowhill by Collenard, and from thence to the Spittal Myre, and thence to the sea at the Palmer Cove." There is no subordinate burgh.

The jurisdiction is exercised by the magistrates in person, assisted by an assessor, who has ordinarily been the town clerk, without separate remuneration, although for some time the assessor was a different person, who was paid a salary of £5 5*s*.

Courts and nature of causes.

The Court held in the burgh is the ordinary bailie court, before which causes both civil and criminal are tried. The former are competent for sums of any amount; but in practice, the sums sued for range from £7 to £60, and the average is about £10. The usual powers are exercised by the Dean of Guild Court. The criminal causes are assaults, breaches of the peace, and similar petty delicts, in which the procedure is by written complaint, and according to the forms usual in summary trials.

Number.

The number of causes brought into court annually since the beginning of 1820 is as follows:—

Years.	Civil.	Criminal.	Aliment of Prisoners.	Services.
1820	50	9	6	0
1821	37	1	2	1
1822	40	1	4	0
1823	40	5	14	1
1824	27	3	15	0
1825	20	0	4	0
1826	10	0	6	0
1827	7	2	3	0
1828	3	3	3	1
1829	4	0	3	2
1830	1	0	13	1
1831	4	0	6	1
1832	4	0	11	0
1833	5	2	7	1

A few of the civil causes are sequestrations, but most of them are actions of debts. The gradual decrease in the number of civil causes was attributed to the operation of the sheriffs' small debt court.

No. 14, p. 6.

The criminal causes noted are such as have gone to trial. The procurator fiscal stated that he thought the number was greater; that he has frequently found it necessary to raise criminal libels, but which he has withdrawn, as he deemed that they could not be proved; and that within the last ten years four or five precognitions have been taken, the trials in which causes proceeded before other courts.

Extension of Jurisdiction to Parliamentary Boundaries.

Macduff, a burgh of Barony, is situate within the Parliamentary Boundaries of Banff; but it is altogether separate and independent. Whether the municipalities ought to be combined is a question of difficulty; but as the union would affect the interests of Macduff more than those of Banff, the discussion and opinion are inserted in the Report relative to the former.

ARTICLE IV.

Patronage.

Patronage.

The civil offices under the Patronage of the magistrates and council are,

Civil Patronage. No. 1, p. 9.

First.—The town clerk, who holds his office *ad vitam aut culpam*. His salary is £8 6*s*. 8*d*., but he considers his whole emoluments as amounting to about £40.

Secondly.—The chamberlain and collector of cess. Both offices are held at present by one person, who is elected annually. His salary as chamberlain is £17 7*s*., and he has official apartments. For collecting the cess he receives a commission, which, on the sum paid to government, is only 3*d*. per pound; but is five *per cent*. on the residue, which includes the gross amount of the sum imposed as stent. He finds security for his intromissions, but does not guarantee.

No. 14, p. 6.

Thirdly.—The procurator fiscal, who holds his office during pleasure, receives no salary, but is paid for the business done. The present procurator fiscal, who has been about two years in office, declared that he had rendered certain accounts, but that he never received payment.

Fourthly.—The assessor, £5 5*s*. The town serjeant and gaoler during pleasure, £20. These officers are paid the ordinary fees of the bailie court, and sometimes, but very rarely, gaol fees. Assistant gaoler during pleasure, £5. Town's drummer, £2 10*s*.

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All of these officers are appointed by the whole council by open election. None of them act by deputy, further than that sometimes there is a depute town clerk appointed by the principal, with the approbation of the council, and during their pleasure.

The late town clerk paid a consideration for his appointment, but no other instance is known in which this was done.

Ecclesiastical.

The burgh has always claimed the right of patronage to the parish church, (which is a single charge,) but has never been able to show a title. It was, however, the practice of the council to enter a protest at the settlement of every incumbent until the last settlement. The amount of stipend paid by the burgh was stated under expenditure.

The precentor is appointed by the burgh during pleasure, with a salary of £8.

School. No. 1, p. 12. No. 51.

The School is under the patronage of the burgh. The teachers are appointed by the magistrates and council by comparative trial, and continue during pleasure. The branches of education taught are Latin and the others usual at schools of the same class. In 1827, the fees for Latin were raised from 5*s.* to 7*s.* 6*d.*, but various reductions were made at the same time on the fees for the other branches. The regulated scale of fees is moderate.

In 1827, a plan for the general management and regulation of the school was proposed by the rector, and approved of by the magistrates and council. It has since been uniformly acted upon, and has been effective and satisfactory.

No lists having been kept, the exact number of scholars who have annually attended for the last ten years cannot be ascertained; but it is believed that during that period the number of boys has increased, from between 80 and 90, to 150. The average number of girls may be reckoned from 30 to 40.

The rector stated, that "judging from long experience, I hold it to be impossible for any set of men to display more anxiety for rendering public education as effective as possible than the magistrates of this burgh have uniformly done."

Mortifications, including Schools and other Charities. No. 1, p. 13. No. 4, pp. 5, 8, 12, 13. Nos. 5, 21, 22, 23.

There are five "Mortifications" under the management of the magistrates and council, or in the direction of which they at present form a numerical majority. *First*, "Cassie's Bounty;" *second*, "Smith's Bounty;" *third*, "Perrie's Free School;" *fourth*, "Wilson's Charity;" and *fifthly*, a sum mortified for building an hospital. The chamberlain is treasurer of those different Charities, and, under the superintendence of the magistrates, manages their pecuniary concerns.

Cassie's Bounty.

First.—"Cassie's Bounty." This mortification consists of £10,000 vested in the national funds under the provision that the interest shall be half-yearly distributed amongst aged persons and children, all in a state of poverty. The minute book containing the original settlement, an opinion of council as to the mode of rendering it effectual, the distribution lists properly authenticated, and the treasurer's cash book were exhibited. The Commissioner is of opinion that the donor's objects have been carried into execution, and that the affairs are regularly and accurately managed.

Smith's Bounty.

Second.—"Smith's Bounty." In terms of the settlement, the monies were invested in the 3 per cent. government consols. The sum is £10,000, which yields a yearly dividend of £308 18*s.* 8*d.* The objects of the charity were, *first*, to pay £25 of additional stipend to the minister of the parish of Fordyce. *Secondly*, the residue was to be applied to the maintenance and education during five years of as many boys of the name of "Smith" as the interest can afford, at the yearly allowance of £25 sterling for each boy. There are at present nine, who are appointed by the magistrates, and are called "bursars.."

The academy is at Fordyce, and the teacher has a salary of £40, with a free house and garden, and about 10 acres of ground. A copy of the original settlement, lists of appointments and applications, and the treasurer's cash book were exhibited; all of which appeared to be correct. An abstract of the accounts for 1831-32 has been produced. The entries on the debit side consist merely of the dividends, and those on the credit side of the sums already mentioned, a few incidental charges, and the treasurer's salary, which is £3 6*s.* 8*d.* There was a balance of £5 19*s.* 6*d.* due to the treasurer.

Mal-Administration.

While the affairs of this charity appear to have been so far well conducted, the management has been, in one respect, censurable. The trustees, in whose names the monies are invested, were four of the burgesses, all of them, it is understood, being connected with commercial concerns. Two of them being now dead, and a third a discharged bankrupt, there remains only one to whom the trust ought to be confided. When the Commissioner interrogated the treasurer in whose possession the fund ticket was, he declared that "it is not in his possession, nor, as far as he knows, in the possession of any other officer of the burgh, and that he does not with certainty know in whose possession it is." In a subsequent examination, he exhibited a letter from the solicitors for the burgh in London relative to those monies. It is dated 8th October 1819, and bears that "we shall also prepare the necessary declaration of trust to be signed upon such transfer being made." A copy of this letter has since been transmitted. The treasurer declared that "he presumes that such declaration was made out, and sent to London, and that he does so from the said letter and other correspondence; but that no such declaration of trust is in his possession, or among the papers of the said fund, and that he does not know with certainty that any such declaration exists." The surviving solvent trustee declared that "he concurs with the declaration of the treasurer, (it having been read over to him by the Commissioner,) and that he believes that he must have executed such a declaration of trust, but that he has no distinct recollection upon the subject." Copies of a letter from the treasurer to the burgh's solicitors in London, and of their answer, have been transmitted to the Commissioner. The treasurer's letter, dated 18th October 1833, bears that

No. 5, pp. 1, 2. ut sup. No. 23.

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"the Commissioners appointed to investigate into the state of the burghs of Scotland had under their consideration" the bequest of the late Mr. Smith, and after referring to the solicitor's letter of 1819 relative to the declaration of trust, proceeds—"now, was the declaration executed and transmitted to you, or can you inform me where it may be found, or obtain a certified copy to be transmitted to the Commissioners?" The answer of the solicitor of 25th October bears in substance that no declaration was ever executed, but that the transfer tickets were in their possession.

In the opinion of the Commissioner, the whole of this transaction has been conducted in a very inaccurate manner. No declaration of trust has ever been executed, and the magistrates and council, the treasurer, and the surviving solvent trustee seem to have been little acquainted with the transaction.

Perrie's Free School.

Third.—"Perrie's Free School" is a mortification by which £1,100 were bequeathed to the magistrates for educating poor children. A salary of £40 is paid to the schoolmaster, who has also a free house and garden. The minutes show that the number of scholars fluctuated from 80 to 90. The minute book containing the original settlement, and also the treasurer's cash book, were exhibited, and appeared to be correct.

Wilson's Charity.

Fourth.—"Wilson's Charity" consists of a sum of between £5,000 and £6,000, bequeathed by James Wilson of Grenada, for charitable purposes, to be paid over upon the expiration of three lives. From the investigation of the committee on the accounts of the burgh appointed in 1831, it appeared that only one of the life-renters (an old woman) survived, and as she continued alive when the Commissioner's inquiries were made the fund had not become available.

George Smith's Mortification.

Fifth.—In giving the details necessary to the property of the burgh, it was mentioned that £1,000, which had been left by the late George Smith of Bombay, for the purpose of building an hospital, had been applied towards defraying the expense of building the town house and gaol. This mode of application was thus explained. As the sum left by Mr. Smith (it was said) was altogether inadequate to build and endow an hospital, the magistrates and council thought it advisable to enlarge the scale of the town house, and to appropriate certain apartments in it for the accommodation of the poor. In years of scarcity, a great portion of the poorer classes was supplied from a soup kitchen established there. The accomplishment of these objects was deemed to be tantamount to building an hospital; although the letter of the donor's settlement has not been fulfilled, his intention has in substance been carried into operation; and while the proceeding is not an example to be followed, it can hardly be censured. No complaint on the subject was made to the Commissioner.

ARTICLE V.

Exclusive Privilege.

Exclusive Privilege.
Privileged Classes.

The Privileged Classes of the burgesses of Banff are divided into the Guildry, including the "traffickers" or merchants, and the "Crafts" or tradesmen. The former undoubtedly possess exclusive privileges, while the validity of those claimed by the latter is extremely doubtful. Unfreemen are called "extraniers." Both the guildry and crafts have hitherto endeavoured to enforce their real or assumed privileges.

Sec. 1.—Guildry.

Guildry.
No. 1, pp. 13, 16, No. 3, pp. 13, 17. No. 13. No. 14, pp. 7, 11.

No one can carry on business as a merchant without becoming a guild brother. The fees of an "extranier" are £10 sterling to the burgh; £4 to the guildry charitable fund, and 9*s.* to the clerk and officer. The fees were increased to this amount by an act of council of 5th September 1806. Apprentices and sons of members pay one half of these fees. The present number of guild burgesses carrying on business within the burgh, who have paid for their admission, is 28.

No. 15, pp. 3, 5. No. 43. No. 49. No. 50, p. 4.

In the report by the committee of the guildry formerly noticed, it is stated, that while a large part of the fees payable by a guild burgess accrues to the common good, the whole of those paid by the handicraftsmen accrue to the particular Corporation. "The committee would therefore recommend such a change in the sett of the burgh as would remedy this defect, and put the application of the money paid on entrance upon an equitable footing." In the parole evidence, given by the deputation, it was stated that considerable inconvenience and

No. 15, pp. 4, 5, 6.

expense had been experienced from encroachment on their exclusive privileges by unauthorized persons, as dealers with or without licences, hawkers, auctioneers, and discharged soldiers; and, therefore, that they were anxious that there should be some revision of the laws by means of which these privileges might be better defined.

Privileges of Guildry enforced.
No. 14, p. 7.

Suits have been frequently instituted for the protection of those privileges. They are usually at the instance of the procurator fiscal, upon the employment of the dean of guild or the magistrates and council. An application for an interdict is presented to the burgh court, which is granted after written pleadings. But as the persons complained of have generally entered, there has seldom been occasion for further procedure.

No. 14, p. 8.

The information in consequence of which the procurator fiscal was instructed by the authorities to sue was given, he believes, in some instances by individual merchants. If information, although verbal, be given by a merchant, he considers it his duty to institute proceedings without instructions from the authorities. But previous to prosecution, he always wrote to, or waited upon, the parties. He stated that there were instances in which, after private information was given to him, and private applications made to the party, he has

thought it expedient not to proceed further; but that he is aware of only one case in which, after an interdict was obtained, the party has been allowed to trade without entering. The case is very recent; and in it the party having agreed to sell off his stock within a given time, and thenceforward to desist from trafficking, the magistrates and council, upon the report of the procurator fiscal, allowed him to do so. From the tenor of this officer's evidence, it appears that there is less anxiety to enforce the privileges of the craftsmen than those of the traffickers. The reason assigned by him was, that as the settlement of craftsmen affects only the particular craft, less attention is excited than by the settlement of a merchant; and, therefore, that he did not consider it his duty to act with the same degree of strictness.

In this burgh, as elsewhere, there is difficulty in drawing the line between the trafficker or merchant, and the manufacturer, against whom exclusive privilege is not deemed operative. In Banff the ordinary opinion and practice are, that those are merchants who sell goods manufactured by others; and that those are craftsmen who sell only goods manufactured by themselves. But it is obvious that this rule must practically be subject to many complicated and embarrassing modifications.

Guildry Charitable Fund.

Allusion has already been made to "The Guildry Charitable Fund," the true nature of which the Commissioner, notwithstanding an anxious investigation, could not ascertain. There are strong indications that the institution is of the nature of a Corporation, to which all guild burgesses have a right to belong. But the officers, intimately acquainted with the constitution and practice, hold it to be entirely of the nature of a friendly society.

The following entries seem to indicate that the guildry, including the charitable, is a minor Corporation, as the trades are, and consequently support the former view.

The town clerk holds the office of clerk to the guildry, not by any separate appointment, but as town clerk, and receives a fee (2*s.* 6*d.*) at the entry of each member. His duties are, to act as clerk in dean of guild processes, and to keep the dean of guildry book.

In this book, which he exhibited, there is the following entry: "In a guildry court of the burgh of Banff, held by the dean of guild, and other members of the guildry charitable fund, for collecting quarter pennies," &c.; and the fund was instituted in 1730 by an act of the dean of guild, which shows that it was originally identical with the guildry of the burgh.

The magistrates and council have made regulations affecting this fund. By a minute of 5th September 1806, they raised the burgess fees, and enacted that every burgess shall pay £10 for the use of the community, besides what is payable to the guildry fund, &c., but declare that the eldest sons of burgesses, guild brethren, shall be entitled to be admitted on paying half the above sum to the community, besides being liable to pay full dues to the guildry fund. No. 53.

The bye-laws and regulations of the "guildry charitable fund" were, on the 18th March 1828, laid by the dean of guild before the council, and their sanction of them craved. The council did accordingly sanction them, and "they declared the dues therein contained to be exigible from all members and intrants, until altered by acts of council; and farther declare the said bye-laws to be acts of council, and to have the force and effect thereof, and appoint the same to be engrossed in the sederunt book of the guildry court, in order that none may pretend ignorance." No. 43.

There is in the guildry book an entry, dated 24th December 1831, bearing, that the meeting instructed the dean of guild to take the proper steps to compel unfreemen, having open shops in the burgh, to become burgesses, and to pay their entry monies, which having been reported by the dean of guild to the council, they, by a minute of 27th December 1831, directed him to adopt the necessary steps for compelling those persons "to take out their freedoms," and if necessary, to employ the procurator fiscal professionally in the matter. No. 3, p. 17.

While neither the clerk nor treasurer could reconcile these entries with their statements that the guildry was not a minor Corporation, but a friendly society merely, they retained their opinion, and declared that such was the view practically taken of the institution.

The guildry of the burgh, it was said, consists of all burgesses of guild, while the guildry charitable fund does not include all such burgesses, but only such as are admitted by the consent of the actual members; and that being a guild burgess does not of itself give a title to enter on payment of the dues. No distinct explanation, however, was given of the difference here indicated between "the guildry of the burgh," and the "guildry charitable fund."

By article 3rd of the bye-laws, already noticed, it is declared that the members of the court shall be guild brethren of the burgh, and no person not a guild brother shall be received. Although not free from ambiguity, this seems to indicate a right of declaring of what class the members shall consist.

By the 5th article of those laws, it is declared, that "no person above 45 years of age shall be admitted a member; but any person entering as a burgess shall, nevertheless, be obliged to pay such sum as he would pay as entry money." Here also there is ambiguity; but the regulation is so far clear, as to prove the exercise of a right of arbitrary exclusion. In consequence of this rule, two guild burgesses had been refused admission. No. 3, p. 14.

On the 3rd of June, and 2nd December 1832, a motion was made, but afterwards abandoned, for dividing the funds among the members. Against that motion the treasurer protested as illegal, although he deems the institution merely a friendly society. If it was a friendly society, there was a power to dissolve, and divide the funds. But if a Corporation, there was no such power; although, indeed, many Corporations have of late believed that they are entitled so to act. No. 13, p. 4.

Bye-laws and Books.

The Bye-laws appear to be carefully prepared, according to the principles on which they are formed; but these are not in accordance with the improvements which have lately been introduced into schemes of this nature. The Books and Accounts exhibited by the clerk and trea-

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surer are accurate. The amount of the funds is £693, the whole of which is lent to the burgh on bills bearing 4 *per cent.* interest.

Sec. 2.—Incorporated Trades.

Incorporated Trades.

There are in Banff six Incorporated Trades, which claim exclusive privileges, viz., hammermen, wrights, shoemakers, tailors, coopers, and weavers.

No. 24.
No. 26.

The origin of these Corporations has not been ascertained. The minute book of the "Convenery" contains a copy of a contract between them and the magistrates of Banff, dated 8th October 1680, registered in the books of council and session 7th November 1683, and approved of by the convention of burghs on the 9th July 1705, which proves that there were certain associations of tradesmen distinguished by particular names, but not that they possessed exclusive privileges. Nor are such privileges conferred upon them by that contract. It proceeds on a narrative that "for shunning and eviting of all controversies, debates, and actions of law that are already intended, or may be intended for or pretended to, by the several crafts, tradesmen, and artificers of the said burgh, anent any privileges they or either of them, for the tyme being, or their successors, supposes or may suppose themselves to have right and claime to. And for giving that due encouragement to them as becometh, and in preservation of peace and for preserving that united concord, unity, and good neighbourhood amongst them that are con-citizens, as becomes them in their stations, as loyal subjects to their sovereigne lord, and lovers of the peace to do." Therefore, there are granted "the freedom, privileges, and immunities underwritten." Those are, *first*, that each trade shall have a right to choose its own deacon. *Second*, that the deacons and their convener shall have votes in the imposition of stent and auditing of accounts. *Third*, the convener and a deacon shall always be in the council; and *Fourth*, they "allow the saides trades the merchandeising of all countrey commodities within this kingdom dureing the continuance of the Act of Parliament, and to that effect, they being alwise freemen of their trade and burgesses of the saide burgh; and shoemakers the buying and bringing home of lether." On the part of the trades, the principal obligation is to do service by watching and protecting the persons of the magistrates when invaded.

The general object plainly is to regulate the *status* and powers of the "trades" with relation to the municipal government. The clause last quoted is that upon which the trades deem that their exclusive privileges are founded, but it is very questionable whether such a construction can be put upon it.

The members of the Corporations are called "burgesses of craft," and they are entitled to exercise their particular crafts without becoming "burgesses of guild."

The details relative to the different Corporations will be now given.

Hammermen.

No 24.
No. 7.
No. 28.

The Corporation of Hammermen includes blacksmiths, masons, bakers, copper and tinsmiths, saddlers, painters, watch-makers, and gold and silversmiths. The number of members in 1823 was 38, and in 1833, 34—being a decrease of 4. There has been no change on the fees of admission.

	£.	*s.*	*d.*
From extraniers	18	11	6
Regular apprentice	12	11	6
Apprentice who has brought up part of his time, after serving three years	15	11	6
Member's son or son-in-law	9	11	6

The fees payable to the conveners' fund are:

30 years of age and under	2	2	0
30 to 35	2	12	6
35 to 40	3	3	0
40 to 45	3	13	6

The sums payable for a burgess-ticket are:

From an extranier	3	17	10
Apprentice or freeman's son or son-in-law	1	17	10

The latter classes of fees apply to the whole incorporations.

Wrights.

No. 24.
No. 9.
Nos. 33, 34, 35.

The Corporation of Wrights includes plasterers, slaters, and glaziers. Number of members in 1823, 18, and in 1833, 19—increase 1.

Fees:

	£	*s.*	*d.*
Extranier under 30, including all dues	27	15	4
Apprentice of 4 years under 30	20	15	4
Member's eldest son under 30	9	15	4

Every entrant, above 30, pays 2*s.* of quarter pence for every year above that year. Within the last ten years there has been an increase of £5 10*s.* 6*d.*, on the fees payable by sons of members.

Shoemakers.

No. 24.
Nos. 11. 24. 38. 39.

The number of members of the Corporation was 26, both in 1823 and 1833.

Fees:

	£.	*s.*	*d.*
Extranier, including all dues	26	4	0
Apprentice of five years	19	6	4
Member's eldest son	9	16	4
Ditto second son	11	16	4

Since 1823, there has been an increase on the fees: Extranier £2; apprentice £2; eldest son £4; second son £5.

The Corporation of Tailors includes barbers, upholsterers, and stay-makers. Number in 1823, 16, and in 1833, 10—decrease 6. Tailors. No. 26. Nos. 8. 29. 30. 31. 32.

Fees:	£.	s.	d.
Extranier under 32 years of age	24	12	4
And legal interest on £18 for every year above that age.			
Apprentice of five years, if under 32	18	12	4
And interest on £14 for every year above.			
Member's son if under 32	11	12	4
And interest on £7 for every year above.			

There has been no alteration on the fees for the last 10 years.

The number of the Corporation of Coopers was 7 in 1823, and 6 in 1833—decrease 1. Coopers. No. 24. Nos. 10. 36. 37.

Fees:	£.	s.	d.
Extranier	18	0	0
Apprentice	9	0	0

No alteration on amount of fees within the last 10 years.

The number of the Corporation of Weavers was 6 in 1823, and 7 in 1833—increase 1. Weavers.

Fees: £5, exclusive of the dues to the convener's fund and those for a burgess ticket, which vary according to the age of the intrant, as stated under the "hammermen."

While accurate information was obtained with relation to the affairs of each of the Corporations, the details would be superfluous, as they present nothing peculiar. It is sufficient to mention that, *First.*—All of them make certain allowances to decayed members, widows, and children. *Second.*—Some of them have property, others merely revenue arising from the entry-money and quarter pence. Like the burgh, part of their property is vested in shares of road funds. Although the burgh may have some apology for such an investment, the trades have none. *Third.*—Monies have been borrowed by some of them for the purpose of deriving a profit from investments, which is a very questionable course. *Fourth.*—All of them have bye-laws, which in general are judicious, and most of which have been sanctioned by the magistrates and council. *Fifth.*—Their concerns are managed by a deacon, clerk, and treasurer, and minute and account books are kept, which were found to be regular. And *Sixth.*—Formerly the deacons were chosen by the council, out of leets; but at the last election they were chosen by the incorporations themselves.

But it is proper to make a few detailed observations regarding the attempts made by them to enforce their alleged Exclusive Privileges. The procurator fiscal stated, that he occasionally instituted proceedings, on the part of the trades, of the same nature as on behalf of the guildry: "but that he would not act upon information of any individual tradesman, as he does in the case of merchants, but requires the instructions of a corporate meeting." The hammermen and weavers do not appear to have made any attempts to enforce their privileges. The wrights, coopers, and tailors have recently done so: and the shoemakers, at one time, endeavoured to do so, but not recently. Attempts to enforce exclusive privileges. No 14. p. 8.

The convener (the nature of whose office will immediately be described) "declared that, as an individual, he is of opinion that it would be highly conducive to the interests of the craftsmen of the burgh, that (assuming that they have any exclusive privileges, which he doubts,) those exclusive privileges should be abolished: and that, though there is a considerable difference of opinion among the craftsmen on the subject, he believes that there is a large body who agree with him." A difference exists among the deacons, as to the advantages or disadvantages of abolition. Those of the hammermen, shoemakers, and tailors, are favourable to the abolition. The deacon of the wrights is unfavourable. The deacon of the coopers is doubtful: and the deacon of the weavers stated that, in consequence of the well-known statute relative to manufactures, they for nearly a century could not pretend to any exclusive privileges. A considerable inclination exists among some of the trades to dissolve the Corporations, and divide the funds, in the event of an abolition of exclusive privileges. No. 6. p. 4. Opinion as to value of such privileges.

Reference has been made to the fees payable to the convener fund. The convenery has always consisted of all the six Corporations. But formerly they acted through delegates, called the "Convener's Court." Those were the deacons and boxmasters, and four masters of craft. Six were thus returned by each Corporation, and the aggregate body was called "the thirty-six," by whom the deacon convener was elected. It was requisite that he should be a deacon. At the last election, the system was changed; for the convener was elected by the suffrages of the whole members of the Corporations, and it was not held necessary that he should be a deacon. No precise rules seem hitherto to have been adopted for the management of their affairs under the new system, and practically the management appears to be still vested in the "Convener's Court." Convenery. Nos. 6. 35.

The rights and powers of the convenery are to take charge of the hall and other property in which the trades are jointly interested, and also to manage the "convenery fund." Each member of each Corporation is bound to enter the fund, in consequence of a mutual contract, to which all the Corporations are parties. If any person refuse to enter, he will be denied admission into his particular Corporation. There is a clerk with a salary of £3 3*s*. The minute book, cash book, annuity book, and list of apprentices were exhibited, all of which were found to be regular and accurate. The cash book, showing the contributions by each Corporation, is annually examined and docqueted at a general meeting, at which a discharge is granted to the treasurer. The bye-laws appear to be good on the whole.

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Licences. No. 1. p. 15.

The magistrates are not in the practice of granting Licences to unfreemen resident in the burgh, but occasionally permission is given on payment of a fine to carry on a temporary sale. The incorporations sometimes grant licences to residents.

No individual burgess, nor any member of Corporation, derives any advantage from the common good of the burgh.

Tradesmen within Parliamentary Boundaries. No. 1. p. 15.

The town clerk stated, in his written answers, that he was not aware of any person settled beyond the limits over which the privileges extend, but within the Parliamentary Boundaries, who exercised the same callings as those who possess such privileges. It is a mistake that there are none such, as the burgh of Macduff is within the parliamentary boundaries, in which there are many merchants and tradesmen.

ARTICLE VI.

Sett of Burgh.

Sett of Burgh.

No change has taken place upon the number of councillors since 1819.

The number of the council is 17. Under the constitution existing previously to the Burgh Reform Act, they were elected without distinction of trades and merchants, except the deacon convener and his assessor, who were necessarily tradesmen.

The number of persons resident within the burgh, whose rents, in property and tenantry, are £10 and upwards, is 132, of whom 65 are burgesses. There are two electors enrolled as proprietors who are not resident. There are, it is believed, within the bounds of the burgh, about 40 houses, and other subjects worth £10 a-year and upwards, besides those on which enrolments have been made.

There are resident within the burgh about 158 persons, whose rents amount to £5 and upwards, but do not amount to £10.

ARTICLE VII.

Police.

Police.

There is no local statute regulating the Police, which is managed in the way usual in similar burghs. As is shown by the accounts, the expense of watching, cleaning, and lighting is defrayed out of the stent and the common good.

Prison.

The Prison is situate in the middle of the town, immediately adjoining to the burgh offices. The accommodation is bad; the number of apartments is four; two of which are for civil and two for criminal prisoners. They are of a moderate size, as the largest is only 18 feet in length, and 17 feet 3 inches in width. There are no airing grounds; and the prison is unhealthy and insecure. Complaints were made to the Commissioner, both by the authorities and the burgesses.

ARTICLE VIII.

Harbour.

No. 14. pp. 1. 5. No. 2. p. 4. Nos. 20. 44. 48.

When giving the details relative to the property of the burgh, it was mentioned that those concerning the Harbour would be reserved for after consideration; because although vested in the magistrates and council, it is under management separate from that of the burgh. This separation was made by a minute of the Head Court of 8th April 1809.

Administration.

The affairs of the harbour are managed by a committee, consisting of the magistrates and council, and six or eight merchants and ship-owners appointed by them. They are ordinarily called "harbour trustees," and the department itself the "harbour trust." But the terms are of mere convenience, as there is neither a parliamentary trust, nor any deed creating a legal separation from the burgh. The coadjutors (who have been properly assumed) and the separate officers may at any time be discontinued, and the management combined with that of the burgh. It was formerly shown that such a combination had been under the consideration of the committee appointed by the Head Court in 1831, and that they had reported that it ought not to take place.

The transactions of this trust are submitted to the review and direction of the Head Court: but that court did not interpose its sanction to the assumption of the additional trustees.

The deacons, it was held, had no right to be members of the trust. Formerly they appear to have acquiesced in the exclusion, but recently they have claimed admission. Their claim has not been hitherto recognized, either by the council or the Head Court.

Books.

Under the direction of the trustees or committee, the affairs of the harbour are conducted by a secretary and cashier appointed by the magistrates and council during pleasure, with a salary of £15. The books kept are a minute book and cash book, into which the cash transactions are posted from the general cash book of the secretary and cashier, (who is a solicitor in Banff,) for no separate cash book or separate bank account are kept for the harbour transactions, which are dealt with by the secretary as those of his other employers are. This appears to be objectionable, as public transactions ought invariably to be kept distinct from private. Accounts are made up annually, lodged with the town clerk, and dealt with as the chamberlain's accounts are.

Mode of Letting Dues.

The Dues are let annually by public auction, after advertisement. Security is found by the lessee, and the auction and procedure are inserted in the burgh court record, as appeared by a minute of 17th August 1833, which was exhibited. The rent is payable in monthly instalments, and a bill to that purport is granted by the lessee. Payment is made, not to the chamberlain, but to the cashier of the harbour trust. The lessee occasionally gives credit for the shore dues.

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Tables of Dues.

Copies of the Table of the shore and harbour Dues, and of the bulking table, have been produced, which were approved of by a minute of the head court of 8th April 1809. It was ordered that they should be printed and published.

Harbour Dues. No. 47.

First.—The Harbour Dues payable by vessels belonging to Banff are, for every vessel arriving at or putting into the harbour, and which shall load or unload any cargo, one halfpenny per ton of register. Every such vessel which shall lie up in the harbour for six weeks, three pence *per* ton. There are exemptions in favour of the Banff fishing boats, and vessels belonging to the port forced in by stress of weather, or wind-bound, and which shall not load or unload the cargo.

Those payable by British vessels not belonging to Banff and foreign vessels, for each vessel arriving or putting in by stress of weather, and which shall not load or unload a cargo, one halfpenny *per* ton, payable once only on the same voyage. If the vessel load or unload, two pence *per* ton; and if it lie in the harbour for six weeks, three pence.

Vessels belonging to Banff pay for ballast two pence *per* ton; and strangers three pence. But no dues are payable for ballast taken out of the basin of the harbour,

Shore Dues.

Second.—Shore Dues for goods, &c., loaded or unloaded in the harbour, are leviable at different rates, varying from one penny to five shillings upon commodities specified, but which are not numerous. Among them are grain, coals, lime, herrings, and kelp. All goods and merchandize not particularly specified pay two pence *per* barrel bulk, according to a "bulking table." This table contains an enumeration of many commodities, both necessaries and luxuries.

Certain materials used for the purposes of the burgh, and fish imported for sale in the town, are exempted. Burgesses who do not pay "scot and lot," and all unfreemen, pay one-half more. Burgesses who pay shore-dues for goods imported, and are obliged to export them on their own risk, are not liable to pay shore-dues on exportation; but if the goods are sold, either to a burgess or stranger, before exportation, they are liable for the same dues as at importation. These provisions in favour of burgesses are enforceed in practice.

Regulations. No. 46. No. 47, p. 3.

On the 27th of March 1820, Regulations for the government of the harbour were made and published by the magistrates and council. There is a "Berth or Shoremaster," but no Bulkmaster; and if any difference as to bulkage were to arise, it would be settled by persons supposed to be qualified.

The committee of burgesses of 1831 recommended, *first*, a revision of the table of shore dues, and a reduction upon cattle and other articles exported; and, *secondly*, the appointment of a bulkmaster. Neither recommendation has been complied with.

Harbour Accounts. Nos. 20, 14. Revenue.

The Harbour Revenue for 1832, consisting of shore-dues (£501) and berthing dues, (£15 12*s.* 9*d.*,) was £516 12*s.* 9*d.* From 1822 to 1831, the revenue fluctuated; but from 1830 downwards, it has been considerably larger than it was during the previous years.

Expenditure.

The Expenditure was as follows:

	£.	s.	d.
Sundries, interest of debts due by account of the harbour -	323	12	4
Various repairs on piers, &c. - - - - - -	73	8	0
Labourers, cleaning harbour - - - - - -	63	6	0
Harbour master's salary - - - - - - -	20	0	0
Secretary and Treasurer, for one year - - - - -	15	0	0
	£495	6	4

Debts.

	£.	s.	d.
The Debts due by the harbour are constituted by bills - -	7,320	0	0
Due to treasurer on account current - - - - -	462	9	2
	£7,782	9	2

There is a disputed debt of £28 18*s.* 4*d.* said to be due to the harbour by the shore-master.

The debts are owing to a comparatively small number of creditors, the amounts ranging from £2,000 to £50. £700 are due to the burgh.

In 1831 the amount was £7,870 14*s.* 5*d.*; from this it appears that £88 have been paid off. They have been incurred for improvements made on the harbour. Although about £17,000 have been expended, the harbour is not considered to be good. But this arises, the Commissioner understood, principally from its exposed situation. According to the report of the committee of 1831, the general aspect of affairs of the harbour trust was much more favourable then than it had been in 1823, mainly in consequence of an increase of revenue, and a reduction of the interest to *four per cent.*

The following Documents accompany this Report:

1. Answers by the Town Clerk to Heads of Inquiry issued by the Commissioners.
2. Answers to ditto from Treasurer.
3. Declaration of Mr. George R. Forbes, Town Clerk, October 1833.
4. Declaration of Mr. Geo. Cruickshank, Chamberlain.
5. Declarations of Mr. G. Cruickshank and George G. Robinson, Esq., relative to Smith's Bounty.
6. Declaration of T. H. Richardson, Convener of Trades.

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7. Declaration of James Legget, Deacon of Hammermen.
8. Declaration of James Joiner, Deacon of Tailors.
9. Declaration of Alex. Shand, Deacon of Wrights.
10. Declaration of Alex. Hossack, Deacon of Coopers.
11. Declaration of John Clayton, Deacon of Shoemakers.
12. Declaration of James Taylor, Deacon of Weavers.
13. Declaration of Mr. James Brown, Treasurer of Guildry Fund.
14. Declaration of Edward Mortimer, Procurator Fiscal.
15. Declaration of George Imlack, Merchant.
16. Declaration of John A. Cameron, Solicitor.
17. Report by the Committee on the Town's Accounts, July 3, 1832.
18. Account of Charge and Discharge of the Burgh of Banff, from Michaelmas 1832 to Michaelmas 1833.
19. Inventory and Valuation of the Common Goods and Effects of the Burgh as at Michaelmas 1833.
20. Printed Abstract of the Burgh Accounts, from Michaelmas 1832 to Michaelmas 1833.
21. State of Funds of Smith's Bounty.
22. Copy Minute of Meeting of Magistrates, as Trustees for Smith's Bounty, and Copy Letter from James Hall, Solicitor, London.
23. Copy Letter, Mr. G. Cruickshank to Messrs. Hall and Brownley, Solicitors, London, with their Answer, relative to Smith's Bounty.
24. Abstract of Answers to "Heads of Inquiry" from Convener of Incorporated Trades.
25. Memorandum by Convener of Trades.
26. Copy Registered Extract of Contract between Magistrates and Incorporated Trades, 9th July 1705.
27. Copy, Bye Laws of Convener Fund.
28. Answers from Incorporation of Hammermen.
29. Observations from Tailor Incorporation.
30. Answers from ditto.
31. State of Funds of ditto.
32. Rules and Bye Laws of ditto.
33. Answers from Wright Incorporation.
34. State of Funds of ditto.
35. Bye Laws of ditto.
36. Answers from Cooper Incorporation.
37. Observations from ditto.
38. Answers from Shoemaker Incorporation.
39. Bye Laws of ditto.
40. Answers from Weaver Incorporation.
41. State of Funds of ditto.
42. State of Guildry Charitable Fund.
43. Bye Laws of ditto.
44. Abstract of Harbour Account for 1831-32.
45. Abstract of ditto for 1832-33.
46. Regulations relative to Harbour.
47. Table of Shore Dues of Harbour.
48. Bulking Table of Harbour.
49. Letter from Edward Mortimer to Mr. Hunter, with additional information.
50. Report of Committee of Guildry of Banff to the Commissioners.
51. Answers to Queries regarding Schools.
52. Memorandum and Extract from Minutes of Council in Answer to Query regarding Alienation of Common Good.
53. Minutes of Town Council regarding Admission of Burgesses. 25th Sept. 1806.
54. Minutes of Head Court, held 31st December 1832.
55. Copy Charter of Burgh.
56. Excerpt Minutes of Head Court, regarding Revenue, &c., of Burgh.
57. List of Persons entitled to Vote in Election of Common Council.

ROBERT HUNTER.

II.

MACDUFF.

(*The references on the margin are to the numbers of the Inventory of Documents appended.*)

In reporting upon the Burgh of Macduff, the Commissioner will, *first*, detail the state and condition of the burgh itself; and, *secondly*, consider the expediency or inexpediency of including it under the municipality of Banff, because it is situate within the same Parliamentary Boundaries.

I.

State and Condition of Macduff.

This burgh of barony is situate on the sea coast, about a mile from Banff, on the opposite side of the river Dovern. It has a good harbour, its trade is gradually increasing, and it is a herring fishing station; but it has no manufactures except a rope work, and a few others connected with the immediate supply of shipping. The buildings are generally of an inferior class, but some of them are good. The parish church being distant, there is a church endowed in the burgh. The population in 1812 was 1,300; it has since increased to about 2,000, and during the season of herring fishery it is upwards of 3,000. In general, Macduff may be described as a town making rapid advances in prosperity.

Previously to 1783, Macduff was a village called "Down," the property of the Earls of Fife, to whom most of the lands in the neighbourhood belong. Charter.

In 1783, a charter of *Novodamus* was granted by the Crown, erecting Macduff into a "Free and Independent Burgh of Barony." The narrative bears, that, at the desire of James Earl of Fife, the erection was made for the purpose of promoting commerce, manufactures, and industry. The bounds are, "From the Limekilns to the well of Tarlair, keeping the stripe thereof to the road of Deyhill, going along that road till you come to the lower Mount of Goukstane, in a line to the said limekilns, having the sea on the north and north-east parts." Within these bounds, the Crown conferred "all powers, liberties, and jurisdictions whatsoever, pertaining or competent, or which ought to pertain or be competent, to any free and independent burgh of barony which can be erected in Scotland." The special powers and privileges are, 1st. A right to the burgesses to elect their own magistrates and councillors, for the due and regular administration of the public good. 2d. "For the better administration and police" it is declared that the magistracy shall consist of a provost and two bailies, who shall possess the usual and legal jurisdiction. 3rd. The administration of the public good is committed to four councillors, jointly with the provost and bailies, of whom three shall be a quorum. 4th. The magistrates and councillors are empowered to make bye-laws. 5th. All the inhabitants within the territory of the burgh formerly described, of legal age, and having a feu, or lease, of an hundred years of a house and garden ground, shall have the right of burgess, and right of suffrage in elections, and can be elected magistrates or councillors, but under the following provisions: "That nobody shall have the right of elections, or shall be elected a bailie, although he may possess the foresaid title, who is not a resident burgess," and that "the elections shall be triennial, upon the first Wednesday of September." 6th. Power is given to "the administrators of said community" of holding a weekly market within the burgh, and of holding, yearly, one free market, during three successive days, upon any part of the territory, with the right of collecting market dues, and with the ordinary jurisdiction.

The feu duties, rents, and casualties of the Earl of Fife are reserved.

ARTICLE I.

Property, Revenue.

Property, &c. No. 1. p. 1.

The property consists, first, of two tenements held of the superior, viz.

	£.	s.	d.
Town house, valued at - - - - - -	231	9	0
Shambles, valued at - - - - - -	150	0	0
Second, Cash in hand - - - - - -	9	18	0
	£391	7	0

The town house was purchased from the mason society of Macduff in the course of the year 1832. Although the transaction appears to have been conducted with perfect *bonâ fides* towards the community, the mode was loose and irregular. There is no minute of council authorizing the purchase, while the titles are taken in the name of the magistrates and No. 2. pp. 2, 3, and 4.

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council for the time being. The town clerk declared that, at the annual meeting of the feuars on the 7th of December 1831, it was resolved that the purchase should be made; and he exhibited a slip of paper containing the names of the feuars who were present, and consented to the purchase. The number was small, although the total number of feuars is about 246. The meeting, he stated, was called after advertisements at the church doors, and by tuck of drum. The minute of the 7th of December 1831, having been inspected by the commissioner, he found that it contained no notice of the alleged proceedings relative to the purchase. The town clerk having been asked the cause of this, declared, "That he received no directions from the provost and magistrates to notice it, and that he never acts without their express authority, and that he is ignorant why notice of it was omitted, but believes that it was because it was intended to be inserted at the end of the year, when the minutes were made up." There is no other minute relative to this transaction, but a book was exhibited, showing that certain obligations had been granted by the provost and magistrates in the form of Bills, to those from whom the purchase had been made. The price had not been paid, but remained a burden on the property. No infeftment had been taken.

The shambles are built on ground given by the Earl of Fife to the feuars.

Debts due to the Burgh.

The Debts due to the Burgh amount to £82. These debts arise from arrears of cess due by the feuars and inhabitants, who have refused payment on the ground that the magistrates have no legal authority to levy such a tax. On this subject some observations will be made under the article "Taxation."

REVENUE.

The Revenue consists,

	£.	s.	d.
1. Of feu duties, amounting to - - - - -	19	16	6
2. Of the cess, of which the average amount appears to be about	38	0	0
3. Waterage to the shipping - - - - -	4	12	0
The total amount of the revenue, therefore, is - - - -	£62	8	6

EXPENDITURE.

The Expenditure consists,

	£.	s.	d.
1. Of the town clerk's salary - - - - -	2	2	0
2. That of the town officer - - - - -	2	0	0
3. "Waterage" and cleaning streets, about - - -	28	0	0
4. Feu duty of town hall. - - - - - -	0	11	3
To this must be added the interest upon the debt, (to be immediately stated,) which, at 4 per cent., is -	14	0	0
	£46	13	3

Assuming, therefore, the whole revenue to be available, there will be a surplus of £15 15*s.* 3*d.*

Debts due by the Town.

The Debts due by the Burgh amount to £350. They were incurred by the expense of buying the town hall, and building the shambles, already mentioned.

ADMINISTRATION.

In terms of the charter, the Administration is vested in the provost, the two bailies, and four councillors. Under their direction the affairs are practically managed by the town clerk and treasurer. The former is elected every three years, has a small salary, and

Duties of Town Clerk.

performs the ordinary duties of keeping the records of council, attending the meetings when required, and giving his advice and assistance. His powers, however, appear to be limited in so far as relates to detailing the *res gestæ*, as was shown by his making no mention in the minutes of the purchase of the town house, because he had received no directions from the council. The minute book was inspected by the Commissioner, to whom it certainly did not seem to be kept with much neatness or accuracy. But there was plainly no intention of omission or concealment, and every thing appeared to be transacted with honest intentions, although the regular forms of business were not observed. The present town clerk has been in office since 1811, and his conduct had, apparently, given entire satisfaction to his fellow townsmen.

Duties of Treasurer.

The money transactions are managed by a treasurer, who also is elected every three years, but who has no salary, or other emolument. The present treasurer (a merchant in the burgh) has been 20 years in office. He collects the whole revenue, consisting of rents, feu duties, and cess. The cess is levied by an officer, who receives a salary of £1. The cash book, commencing in December 1822, and ending in October 1833, was found to be regular and accurate. The accounts and vouchers are read over at the annual meeting of the feuars, when objections may be taken to them. Objections sometimes have been taken, but were in general satisfactorily explained. The accounts are examined and docqueted in presence of the meeting. Independently of this public examination, the burgesses are held to have a right to inspect them at any time, and accordingly they always lie open for examination in the possession of the treasurer.

No provision has been observed in the charter authorizing an annual meeting of the feuars, nor does it recognize any control in them over the administration of the magistrates. The right of triennial election is the only check conferred upon them. The annual meeting therefore, and the powers exercised by it, are consuetudinary only, and probably originated in

Head Court.

imitation of the Head Court of Banff. The meeting is called by tuck of drum, on the firs

Wednesday of December, is styled the Head Court, and its acts are of a nature precisely similar to those of the court of the neighbouring burgh. Although of doubtful legality, the acts of these meetings must practically be deemed to form parts of the administration; and in so far as a power of superintendence only is exercised, they are undoubtedly beneficial.

ARTICLE II.

Taxation.

Taxation by Head Courts.

The imitation of the Head Court of Banff has not been confined to control, but has been extended to the imposition of cess by the annual meeting of the feuars. No authority is given by the charter to impose taxes, or to hold such a meeting. The usage has existed for upwards of 40 years. During that period there has not been acquiescence, as for upwards of 10 years many of the inhabitants have refused to pay on the ground of alleged illegality. In consequence of these refusals, considerable arrears are due, as was mentioned under Article I. No attempt has been made to enforce payment by diligence or action. 1791.

Cess.

The Head Court fixes the gross amount of cess to be levied, and appoints stent-masters yearly. The tax is imposed on all real property at the rate of 6*d.* per pound, and also on certain traders, who deal in corn, lime, coals, and other material articles of consumption. They are assessed in a slump sum, according to the supposed importance or amount of their trade. There is, however, no general cess on trade. The cess is also imposed in the same way on certain inhabitants and feuars, according to their supposed means and substance. The cess-roll for the year 1832 was exhibited, and from it, as explained by the parole evidence, it appears that powers of a very arbitrary kind were exercised in the imposition and apportionment of this tax. No right to exemption was acknowledged, but the tax was not exacted in cases of poverty. Although these discretionary proceedings were slightly noticed, no formal or serious complaint was made.

The sums thus levied are (as shown under Article I.) applied to the purposes of the burgh.

ARTICLE III.

Jurisdiction.

Jurisdiction.

The territorial extent, and the legal character of the jurisdiction, are sufficiently explained in the detailed account which has been given of the charter. The powers conferred are practically exercised by the magistrates, who hold "Bailie Courts," in which they act in person and without the assistance of any assessor. The number of causes, civil or criminal, has always been very small. In 1820, there were two civil causes; in 1821, the same number; in 1825, only one; and none from that period. In 1821, there were three criminal complaints; in 1822, two; in 1823, one complaint; in 1829, one; and there have been none since. It was strongly represented to the Commissioner that it would be beneficial if powers, similar to those contained in the Small Debt Act of 1829, were conferred on the magistrates.

ARTICLE IV.

Patronage.

Patronage.

The only patronage consists of the appointment of the town clerk and officer. The salary of the former is £2 2*s.* but he receives £5 more from the superior. The salary of the latter is £2. There are also three town officers, appointed by the superior, who receives from him £10 divided among them.

ARTICLE V.

Exclusive Privilege.

Exclusive Privilege.

There are no burgesses, guild brethren, or Corporations. But it was stated, "that the burgh has been in the practice since 1810 of levying a small sum from itinerant merchants, and from stranger tradesmen undertaking work, or a job, of £5 and upwards; and since 1818, on work, or a job, of £2 and upwards, within burgh." These sums are levied not only upon the merchants and tradesmen, but also upon the inhabitants who employ non-resident tradesmen to do work within the burgh. The impositions are made by the authority of the magistrates and council, as appeared from minutes exhibited. No power so to do, or otherwise to interfere with the freedom of the trade, is conferred by the charter. The clause which may, perhaps, have been deemed to have given rise to these impositions is "with power to said provost, baillies, and councillors, and their quorum, to make such private laws and regulations as may be agreeable to the public laws of the kingdom, and which may promote stability and preservation of order, and the progress and prosperity of the burgh." No. 1. p. 2. No. 2. p. 6. No. 3, p. 6. No. 5, p. 5.

ARTICLE VI.

Sett, or Constitution.

Sett, or Constitution.

There has been no change upon the sett or constitution since the date of the charter. There are in Macduff 246 feuars, and 238 heads of families not feuars. Eighty is the number of those whose rents in property, or tenantry, amount to £10 yearly and upwards; and there are 143 whose yearly rent is £5 and under £10.

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ARTICLE VII.

Police.

Police. There is no Local Police Act, and the police is managed by virtue of the charter, and regulations founded upon it. The expense is defrayed out of the funds formerly stated. But in cases of emergency, the services of all the inhabitants are exacted, and wages drawn from the common good are paid to those who cannot afford to work gratuitously.

Harbour.

Harbour. The Harbour is the private property of the Earl of Fife. In consequence the Commissioner did not attempt to investigate its affairs. But the town clerk voluntarily informed him that the amount of the harbour and shore dues for 1831-2 had been £248 10*s.*; and for the year 1832-3 had been £267, showing a considerable increase. A table of those dues was exhibited, from which it appeared that the rate is about one half lower than that of the harbour of Banff.

II.

Inclusion of Macduff under the same Municipality as Banff.

Inclusion of Macduff under the same Municipality as Banff. Macduff is situate within the same parliamentary boundaries as the royal burgh of Banff, but the details already given prove that it is entirely separate, with relation both to institutions and local situation. Not only are the bodies of the towns a mile distant from each other, but they are not connected by any straggling suburb. They are, in all respects, two distinct towns. The question, therefore, of the propriety or impropriety of extending the municipality of Banff over the parliamentary boundaries, so as to include Macduff, is difficult.

The Commissioner will first state the arguments which were urged for and against the extension, and then give his own opinion, drawn from a consideration of those arguments, and from what passed under his own notice.

Arguments in favour of extension. I. In Banff there was a feeling, although not very strong or general, that the extension might be advantageous. The principal arguments were as follow:

1st. The General Police Act, 3 & 4 Will. IV. c. 46, had already so far united the burghs as to enable three-fourths of the joint number of qualified persons compulsorily to impose the provisions of that statute. The second clause of the statute enacts that, for the purposes of this Act, the boundaries of such of the said burghs as send, or contribute to send, Members to Parliament, shall be the same as the boundaries which are fixed by an Act passed in the second and third years of the reign of his present Majesty King William the Fourth, intitutled "An Act to amend the representation of the people in Scotland, and the boundaries of all other Royal Burghs, Burghs of Regality and of Barony, shall be such as are established by charter, grant, prescription, Act of Parliament, or otherwise, and within a distance not exceeding one thousand yards from the bounds of such last-mentioned Burghs; and such last-mentioned Burghs, and limits hereby thereto attached, shall be deemed and taken to be Burghs within the intent and meaning of this Act."

2dly. Mutual benefits would accrue by prevention of the jealousies which must ultimately arise between two communities so near to each other, and engaged in trade and manufactures of the same kind, particularly the rivalry between the two harbours must be highly injurious to the interests of both.

3dly. A more efficient municipality and police would be created by the united assessments; and Macduff would derive benefit from having its affairs administered by persons of higher station than those to whom they are at present entrusted.

4thly. Answers were given to the objections which it was supposed might be made. These objections were, 1. The existing debt of the burgh of Banff. 2. The exclusive privileges claimed by the merchants and tradesmen of that burgh; and 3. The proprietary rights of the Earl of Fife.

The answer made to the *first* objection was, That the extension should not operate retrospectively, and, therefore, that Macduff should not be responsible for the existing debt of Banff. The *second* objection was deemed to be obviated by the position that the handicraftsmen of Banff had no exclusive privileges; and that assuming any exclusive privileges to be allowed to exist hereafter, those of the guild brethren of Banff might be communicated to the merchants at Macduff. And *thirdly*, The feu duties would, of course, be reserved to the superior, and a pecuniary compensation, in the form of a rent charge, might be made to the proprietor for the transference of the harbour dues to the municipality.

Arguments against the extension. No. 4. II. At Macduff the feeling was strong and unanimous against the junction. The Commissioner examined a considerable number of the inhabitants of most wealth and influence, including the council, and some merchants who trade extensively. They declared "that they are unanimously of opinion, that the junction of Macduff with Banff would be highly disadvantageous to the former, because Banff is heavily burdened with debt, has much higher taxation, and particularly the harbour-dues, being one-half higher at Banff than here, and generally that they consider this burgh advancing in trade and prosperity, while Banff is declining; that they see no advantage which could result from the junction, as they can regulate their own police, obtain a supply of gas, if they so wish, as their supply of water is as good as that of Banff; and generally, as their charter confers upon them sufficient powers for governing the burgh, or if there are any defects, that they admit of easy remedy, without the junction proposed." "That they are convinced that if such a junction be proposed, it will meet with determined resistance from the whole inhabitants."

In addition to these reasons there may be stated, 1. The physical and political separation of the burghs; and 2. The difficulty of adjusting the terms upon which the proprietory rights of the Earl of Fife to the harbour could be transferred.

III. The question, which class of reasons should prevail, is one of some delicacy. Assuming that the presumption should be in favour of the union of all the territory within the parliamentary boundaries of every burgh, there may exist positions in which it ought to be overruled. Is the present then one of those positions? Opinion of Commissioner.

The distinct positions and interests of the two burghs afford strong reasons against an extension. In every particular they are separate. Although the inhabitants of Macduff have been enjoined to return a representative by polling at Banff, they no more form a part of its population than do the inhabitants of Cullen.

Much weight attaches to the arguments derived from the growing prosperity of Macduff, and the commercial advantages resulting from the preferable position of its harbour, and lower rate of harbour dues. Two separate harbours could not be long maintained within the same municipality; and as Banff would have a predominant influence in the election of the council, the probability is, that the harbour of the *burgh* would be established there, as the harbour of Macduff is too distant to suit the trade of Banff. It is possible indeed that the superiority of the situation of the harbour of Macduff might ultimately lead to the formation of the establishment there. But this event must be of distant occurrence, and, meanwhile, the harbour of Macduff, if burdened with the Banff harbour dues, would be little frequented, and fall into disrepair.

Although the difficulties arising from the debt of Banff, and the existence of exclusive privileges there, might be obviated in the manner formerly noticed, no sufficient answer has been given to the objection founded on the proprietory rights of the family of Fife. In so far as relates to their feu duties, there is no obstacle; but it would be difficult practically to adjust a compensation for the loss of the harbour dues. The present revenue could not be adopted as the amount at which permanent compensation could be calculated, as the revenue is increasing. Nor could a prospective ascending scale be easily framed, or, if framed, carried into effect. These difficulties would exist even on the supposition most favourable to adjustment, that the harbour of Macduff was a separate establishment, managed with prudence and vigour. They would acquire great additional force, if the harbour was either absolutely or virtually transferred to Banff, as the prospective revenue being amalgamated, the burdens and obstacles which affect Banff would operate.

The only argument in favour of the junction which made an impression on the Commissioner, was that rested on the second section of the General Police Act. If read so strictly as to exclude construction, this section does appear to include the whole territory within the parliamentary boundaries, however composed. But it may be questioned whether, conformably to its true intendment, it ought to include a case like the present? The cases in which its application was contemplated were those in which, while there might exist different towns, there was either political subordination or physical union; and, in several instances, both of these qualities are to be found. But in the present case there is neither of those qualities.

Whatever interpretation might be put upon the section in a question relative to the application of the statute itself, it is conceived that, with relation to the present discussion, the Commissioner is entitled to view it according to its probable operation. The right of voting under the General Police Act is vested in the occupants of premises of the yearly rent of £10 or upwards; and before the provisions of the Act can be adopted, the concurrence of *three-fourths* of such occupants is requisite. In Banff, there are 172 houses, or other subjects worth £10 a-year; and in Macduff there are 80 such subjects, making a total of 252. In consequence, it is obvious that the inhabitants of Macduff have it within their power to negative such an union, which requires for its adoption 189 votes; whereas in Banff there are only 172. But from the decided opinion against a junction for any purpose, expressed by the inhabitants of Macduff, it is certain that a proposal for a joint police establishment would be rejected. Practically, therefore, the question of municipal combination must be viewed as if this statute did not exist. Report on Banff, Art. VI.

While evil would accrue to the inhabitants of Macduff by extension, Banff would be no wise injured by the continuance of the actual position. The police of Macduff being efficient, that town does not form a receptacle for delinquents who might infest the vicinity; and there is no other solid ground upon which the extension could be demanded.

For these reasons, the Commissioner, while he fully concurs in the propriety of the opinion that municipalities should in general extend over the territories within the Parliamentary boundaries, thinks that the present case should form an exception, and that the municipality of Macduff should not be included under that of Banff.

The following Documents accompany this Report. DOCUMENTS.

1. State containing answers to Heads of Inquiry, issued by the Commissioners, October 1833.
2. Declaration of James Horne, Town Clerk.
3. Declaration of William Peterkin, Treasurer.
4. Declaration of Inhabitants of Macduff, relative to its Junction with Banff.
5. Excerpt from Charter of Burgh.
6. Memorandum of Town Clerk relative to Burgh.
7. Excerpt from Charter of Erection and additional Memorandum by Town Clerk.
8. Memorial for the Feuars and Inhabitants subscribing against Junction with Banff.

ROBERT HUNTER.

REPORT

ON

THE BURGH OF BRECHIN,

(FORFARSHIRE.)

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BRECHIN.

BRECHIN is a very ancient royal burgh, and was formerly the seat of a bishop's see.

POPULATION.

The Population of the town and parish in 1801 was 5,466.
" in 1811 " 5,559.
" in 1821 " 5,906.
" in 1831 " 6,508.

PROPERTY.

The Property of the burgh of Brechin consists of lands, houses, mills, a loft in the church, and some shares in a turnpike road. It has also some growing wood and feu duties. According to a valuation made at Michaelmas 1832 by the town treasurer and the magistrates, assisted by an open committee of the town council, the value of the whole, with the exception of the town-house and school-house, which are unproductive, is £13,935. The town-house and school-house may be valued at about £830 more.

REVENUE.

	£.	s.	d.
The Revenue arising from these subjects is	440	2	½
And from the customs, market dues, and from the entry of vassals and burgesses	195	0	0
	635	2	2½
To which may be added the average produce of street manure	84	16	0
And a small annual return from coals	1	5	0
	86	1	0
	£721	3	2½

EXPENDITURE.

The ordinary annual Expenditure is stated, for the year ending Michaelmas 1832, as follows:—

	£.	s.	d.
Interest of debt	120	3	0½
Annuities	48	19	3
Market expenses	22	16	1
Election entertainments	21	18	10
Parks, &c.	25	9	4
Police, cleaning, lighting, and water	239	11	2
Schools	76	5	7½
Officers' salaries	92	2	7½
Annual dues	61	18	11¾
	709	4	11¼
Leaving a balance that year of	£ 11	18	3¼
The extraordinary expenses incurred the same year were	366	4	9½
Over-expenditure of that year	£354	6	6¼

In general, there is stated to be a small balance in favour of the town, between the ordinary expenditure and the income. The excess of expenditure for the year ending Michaelmas 1832 is chiefly to be ascribed to recent improvements in the streets and roads of the town.

DEBT.

The following is a statement of the town's Debts at the same period:—

	£.	s.	d.
Moveable bonds	1400	0	0
Bills granted by treasurer	700	0	0
Annuity and mortification	227	15	0
Balance due treasurer	816	15	0
Open accounts, supposed	140	0	0
	£3,284	10	0 5/12

From the accounts rendered to the House of Commons last year (1832) the debt of the town appears to have been nearly stationary at this amount since Michaelmas 1828. In that year it increased several hundred pounds. The form of the accounts does not present the means of ascertaining precisely the causes of the rise, but a considerable purchase seems to have

been then made by the town. In 1793 the debt was only £614 9*s.* 10*d.*; the income was £268 13*s.* 3*d.*, and the expenditure £294 7*s.* 9*d.* The whole property of the town was then valued at £7,119 9*s.* 7*d.* So that within the last 40 years the value of the property is nearly doubled—the income and expenditure are nearly doubled—and the debt has increased five fold.

	£.	*s.*	*d.*
In 1801 the debt was - - - - - - - - -	941	14	6
In 1811 „ - - - - - - - - -	951	15	0
In 1821 „ - - - - - - - - -	1,406	19	10¼
In 1831 „ - - - - - - - - -	3,366	0	0¼
In 1801 the property of the burgh was valued at - - -	8,104	6	4¾
In 1811 „ „ „ - - - -	11,400	3	6½
In 1821 „ „ „ - - - -	12,128	1	5¾
In 1831 „ „ „ - - - -	13,718	18	0¾

ALIENATIONS. The burgh of Brechin was at one time possessed of very extensive landed property, amounting to about 1,768 Scotch acres, the greatest part of which was feued out prior to the year 1770, at feu duties which now seem very small; but as it was all muirland, and as there were claims of servitude over it, they may have been an adequate consideration at the time. These transactions do not appear to have differed materially from the mode of management of the private properties in the neighbourhood.

The town has alienated some heritable property during the last 40 years, but it has also acquired some.

	£.	*s.*	*d.*
In 1796 the magistrates sold by public roup half an acre of the Witchden, for - - - - - - - - - -	£129	0	0
And a piece of muir, upwards of 13 acres, for - - - -	130	0	0
	£259	0	0

besides a feu duty of 30*s.* and 8*s.* 1½*d.*

In 1801 another part of the Witchden was sold for -	£170	and a feu duty of 30*s.*
And another piece of muir for - - - - -	90	and a feu duty of 7½*d.*
	£260	

This sale was also by public roup.

In 1810 there was a further alienation of eight acres of muir, for a premium of £80, and an annual feu duty of £13 2*s.*, because there was lime in the field;—also by public roup.

In 1812, half an acre of muir ground was sold to Mr. Allardice of Murlingden, for £8, by private bargain, and there is no annual feu duty upon it. In 1814, a piece of ground, one acre, two roods, 18 falls, part of the market stance, was sold by private bargain to Mr. Blair of Cookston, for £28, and the annual feu duty is 1*s.*, payable to the town.

The prices arising from these sales were all paid into the treasurer's hands, for the purposes of the burgh. At the date of the first-mentioned sale, the town was engaged in building a new slaughter-house; and at the date of the second, they had in view the complete repair of the second minister's manse.

	£.	*s.*	*d.*
In 1810, the magistrates had purchased a house, with the object of accommodating a schoolmaster; and in 1812, there was a piece of land bought at the crofts, for which was paid - - -	120	0	0
This subject was considered a valuable acquisition, from its locality.			
And in 1828, another purchase was made of the rest of the crofts for	355	0	0
In 1814, the magistrates acquired ground for building a school, for which they paid about - - - - - - -	400	0	0
And this in every view was an improvement, as the site was formerly occupied by a barn and tan-work, and is within the town.			
In 1815, they purchased Deas' property, adjoining the mills, for -	120	0	0
In 1823, they bought Greenhill's barns, near the last-mentioned property, for - - - - - - - - - - -	183	0	0
In 1831, they purchased granaries and houses near the mills, for which they paid - - - - - - - - -	680	0	0
Total price of property acquired - -	£1,858	0	0

Besides these acquisitions, the burgh has been improved by new paving the streets in 1795, and by the erection of the slaughter-house in 1796, and a school-house in 1814. In 1817 and 1823, a considerable sum was laid out in employing the poor, who were at these periods in more than usual distress; and in forwarding some agricultural improvement in the east and west parks, by which the value of the property of the burgh has been augmented. During the last five years, the streets of the burgh have been levelled and Macadamised in those places where it was most wanted, and new accesses have been made into the town. These improvements have been executed at a very considerable expense, part of which might have been saved, perhaps, if they had been executed under the direction of a skilful engineer; but they are all useful, and tend to the comfort of the inhabitants of the burgh.

The result of the investigation of the accounts of this burgh, on the whole, affords a satisfactory view of its financial management, and under proper control the ordinary revenue is quite equal to the necessary expenses of the burgh.

BRECHIN.

TAXATION.

There are no local taxes levied by the magistrates on this burgh, except the customs and dues already mentioned. The amount of the land tax assessed annually since 1825 is from £53 to £55, of which £46 16*s.* is paid to exchequer; the rest is for the expense of collection and irrecoverable arrears.

The market dues, under the charge of the town council, consist of the petty customs exacted within burgh; rates paid at head markets and fairs, and the shambles and weigh-house dues. The right of the town council to exact these duties seems to rest on the original erection of this town into a royal burgh,—on the immemorial usage of this and other royal burghs,—and on the decisions of the supreme court. The present table of rates is fixed by act of council, 16th November, 1809. The market dues are let yearly by public roup, and there are no debts affecting them separate from the general debts of the burgh.

JURISDICTION.

The boundary of the royalty does not extend far into the country. There is an extensive and populous suburb, called the Upper and Nether Tenements of Caldhame, lying without the royalty, but within the parliamentary boundary. The magistrates exercise their Jurisdiction all over the royalty, but not in the suburbs. They also exercise a summary jurisdiction in the market-place at Trinity Muir during the times of market. Both these jurisdictions are exercised by the magistrates themselves personally; and they do not delegate the exercise of their jurisdiction any where. A bailie court is held every Wednesday, except during two short vacations. Both civil and criminal causes are tried at the ordinary sittings; and occasionally there are special criminal sittings. Actions of summary removing within burgh are also brought in the bailie court, in virtue of an act of council; and applications are likewise presented there for building warrants, under the authority of an act of council, 31st December, 1827, which has almost suspended the use of the guild court. Since 1820 there have been brought in the bailie court of Brechin,

639 Civil causes (proper).
436 Removings.
24 Building warrants, since 1872.
64 Criminal causes.

1,163

Twenty-two cases tried last year arose out of disputes about the removal of nuisances during the prevalence of cholera.

In deciding both civil and criminal causes the magistrates are assisted in the bailie court by the town clerk, who acts as assessor without any special appointment. There is an appeal from the bailie court (where only one bailie sits) to the other magistrates; and when the present provost, who happens to belong to the legal profession, sits with them, the assistance of the assessor is not required. The present town clerk states,* that he has found in practice that the Act of Adjournal, 1827, is a great impediment, in many respects, to bringing culprits to justice. For instance, if a delinquent keeps out of the way, so that the criminal letters (which must be raised in the same form as if for a trial in the court of justiciary) cannot be served upon him personally, besides leaving them at his dwelling-house, proclamation must be made at the head burgh of the county, and a copy of the libel, and list of witnesses, affixed to the cross there, while the party may be all the time within the royalty where he has committed the offence, and where, at any rate, he has his residence, and, after all this expense has been incurred, perhaps the fine to be imposed may not exceed 30*s.* Under these circumstances the procurator fiscal naturally hesitates to bring actions, and the magistrates are very unwilling to entertain them; all which proves an encouragement to the commission of petty offences, and is very prejudicial to the good order of the burgh.

The provost, after having had 15 years' experience in the magistracy, expressed his opinion† that the jurisdiction exercised by magistrates of royal burghs was of doubtful propriety; as in general they were quite incapable of exercising it themselves, and came to be mere instruments in the hands of the town clerk; that this is all very well when the town clerk happens to be a person of respectability and character, but this may not always be the case; and in his opinion the jurisdiction would be better exercised by a well-qualified legal officer appointed for the purpose, upon whom the whole responsibility would rest. It appeared to him that such an officer would be particularly useful in the towns where the General Police Act may be adopted; and he thinks such an appointment might supersede the necessity of circuit small debt courts.

The provost thinks it would be highly expedient to extend the jurisdiction of the town over the whole parliamentary territory. The same opinion was very strongly expressed by other persons connected with the town, as being one entertained by all the best informed of the community. At a meeting of the guildry, called some time ago, a very great majority of that body expressed an anxious wish to see such an extension.

PATRONAGE.

The magistrates and council, besides electing the town-treasurer and the hospital-master, who are councillors, the first of whom receives a salary of £1 2*s.*, and the latter 10*s.* yearly, have the election of the following civil officers within the burgh:

Town Clerk.
Procurator Fiscal.
Collector of Cess and Burgh Taxes.
Billet-master.

* Evidence of Mr. Black, p. 7. † Evidence, p. 24.

BRECHIN.

Three Town Officers.
Three Scavengers.
Three Foresters.
Clock Keeper.
Keeper of the Public Wells.
Bell-ringer.

They are appointed by the Council generally.

The appointment of the town clerk is *ad vitam aut culpam*, on a salary of £10 10*s.* a-year, for attending the ordinary meetings of the council, and £3 3*s.* a-year for office rent. For the other duties of his office he is paid by fees at the same rate as the sheriff clerk of the county, except in some trifling cases, such as acts of warding and building warrants, which do not occur in the sheriff court.

The collector of cess is appointed from year to year. The others hold their appointments during the pleasure of the council. The collector of cess, billet-master, and fiscal, can only be dismissed by the council; the other officers may be dismissed by the magistrates. None of the duties of these officers are performed by deputy; nor is any security given by those holding them. The fiscal is paid by the ordinary fees on legal proceedings, and has no salary; the collector of cess has a poundage on the money collected by him. One of the three town officers is also the gaoler, and he has a salary of £21, and a suit of livery; the next has £16, and a suit of livery; and the third, who is town-drummer, has £12, a suit of livery, and the fees of proclamations. They also derive some trifling emolument from acting as serjeants to the bailie court, and as sheriff-officers. The scavengers have 9*s.* per week; and the keeper of the public clocks is allowed £8 per annum. The well-keeper, who is a plumber, is allowed £4 per annum; the bell-ringer, who is one of the kirk-officers, has £5 a-year; the first forester, a nurseryman, has £6 a-year, for taking a general charge; and the other two £1 and 10*s.* a-year, for acting occasionally as wood-wards.

The town of Brechin has no church patronage, and pays no minister's stipend, except for the teinds of their lands, like the other heritors of the parish.

There is a Grammar-school in Brechin, the master of which is appointed by the magistrates; he has a salary of £8 17*s.* 9*d.* a-year, and a free house. The Government has also been in the practice of giving to him the appointment of "Preceptor of Maison Dieu," which office is the only remnant of that ancient establishment; and he draws the revenues attached to it, arising from the rents of certain houses, which are worth £37 a-year. There is also a parish-school within the burgh, the master of which is paid in the same way as other parish schoolmasters; and the magistrates have a voice in his election, along with the minister and heritors of the parish. His salary from the parish is £34 4*s.*, and he receives £10 from the town, in lieu of a house and garden. In 1826 and 1827 there was a subscription of about £300, for the purpose of providing a third or assistant teacher; and this sum being given to the town, they pay £25 a-year to a third teacher, who at present assists the parish schoolmaster. The fees in both schools are regulated by act of council, passed in 1809, and are very moderate. English and writing, per quarter, 4*s.*; arithmetic, 5*s.*; Latin, 6*s.*; mathematics, 6*s.*; English grammar, 5*s.*; French, 10*s.* 6*d.*; book-keeping, per course, £1 1*s.*; geography, £1 1*s.* But when boys pay the Latin fee, all the *minor* fees for the other branches are included in that. The average number of scholars is stated at 220. There are several private teachers in town. It appears that 200 merks yearly were mortified, at a very remote period, to the rector of the grammar-school. This sum is under the management of the magistrates; and the interest of it forms part of the salary paid by them to the master of the grammar-school.

EXCLUSIVE PRIVILEGES.

There are six incorporated crafts and a guildry in Brechin. The guildry consisted, at Michaelmas, 1831, of 181 members, resident and non-resident. The total number of burgesses, craftsmen as well as guild brethren, may be stated at 300. Guild brethren possess the Exclusive Privileges of setting up shop and carrying on merchandize within the burgh. The dean of guild, along with ten assessors or advisers, chosen annually by the guildry, claims right to the same jurisdiction within the bounds of the burgh as belongs to the dean of guild of Edinburgh and his assessors in that city. The fees of entry for guild brethren, for the last forty years, are,

	£.	*s.*	*d.*
For strangers	10	0	0
Freemen's sons, resident	0	10	0
Freemen's sons, non-resident	1	0	0
Freemen's sons-in-law, resident and non-resident	1	0	0
Apprentices	5	0	0

There are no sums levied annually from members of guild, nor from the members of any of the corporations. The magistrates do not grant licences to unfreemen, but some of the incorporations do. The sum demanded is generally the annual interest of the entry money payable to the incorporation granting it, and varying sometimes according to the circumstances of the parties. A good many tradesmen carry on the same trades in the space between the boundary of the royalty and the parliamentary boundary.

The six incorporated trades of Brechin are the

Hammermen,
Glovers,
Bakers,
Shoemakers,
Weavers,
Tailors,—

each of whom, except the weavers, enjoy the exclusive privilege of exercising their crafts within burgh.

The hammermen, at Michaelmas 1831, including blacksmiths, tinsmiths, saddlers, watchmakers, gunsmiths, swordmakers, silver and gold-smiths, &c. &c., consisted of about 38 members in the town. The fees exacted on entrance are as follow:

	£.	s.	d.
From strangers	10	19	8
Sons and sons-in-law of freemen	0	14	8

About six only of this incorporation are handicraftsmen, (working tradesmen,) and entitled to a voice in electing the deacon. All the rest are either members of the guildry or unhandicraftsmen (*i. e.* admitted into the trade as sons or sons-in-law of freemen). Neither of these last classes have a voice in electing the deacon, though they have in the management of the funds.

The number of members composing the *glover* incorporation, at Michaelmas 1831, was 34. The fees exacted by them are,

	£.	s.	d.
For a stranger	5	0	0
Freeman's son or son-in-law	0	11	1

Only four of this incorporation have any voice in the choice of deacon, all the rest being disqualified, by the bye-law of the trade, as guild brethren.

The voting members of the incorporation of *bakers*, at Michaelmas 1831, were 12. The total number of members was 29. The entry money to their incorporation is,

	£.	s.	d.
For a stranger	5	0	0
Freeman's son or son-in-law	0	10	0

The total number of the *shoemakers'* incorporation at the same date was 48; of whom 31 were handicraftsmen.

	£.	s.	d.
The rate of entry to strangers is	10	0	0
Freemen's sons-in-law	1	10	0
Freemen's sons	1	0	0

The *weavers'* incorporation is more numerous, and at Michaelmas 1831 had 42 members resident within the town, and 29 non-resident. Their entry is,

	£.	s.	d.
From strangers	4	0	0
Freemen's sons and sons-in-law	0	10	0

The number of resident handicraftsmen members of the *tailor* incorporation qualified to vote, at Michaelmas 1831, was seven. The whole number was 17, of whom three were non-resident, and seven were members of the guildry.

There is a stronger disposition to enforce exclusive privileges in this than in most other towns. The tailors in particular enforce their privileges very strictly. Their treasurer, Mr. George Hill, stated that * they found no difficulty in maintaining those privileges, as they had always been supported by the magistrates; though they had frequent litigations in defending them, and may have unnecessarily thrown away money in that way, he still thought their privileges ought to be defended; that his reason for so thinking is, that having paid for this advantage themselves, it is but fair that those who come after them should pay for the same; that, besides this, the effect of doing away the privileges would be to increase the chance of worse workmen coming upon the public, as at present they are required to show their capability for their work before being admitted to the incorporation. He added, however,† that he never knew any instance of a man being refused admission to the craft for not being capable of working. In this opinion he was supported by the deacon of the craft.

Other members of the incorporations were disposed to take a different view of the matter. One individual,‡ who had acted for some time as clerk to the six incorporated trades, expressed his knowledge that prosecutions against unfreemen have not been so frequent of late years as formerly; and that this was owing to the opinion of the members of the incorporations being, with the exception of the tailors, against their own privileges. One reason he assigned for the prevalence of this opinion was, the conviction that the craftsmen of the suburbs could so easily evade them; but he thought the chief cause was that the members of the incorporations saw the absurdity and hardship of the monopoly. Mr. James Wood, a member of the tailors', weavers', glovers', and guildry incorporations of Brechin, stated§ his conviction that these privileges were not valuable to the town, and that the craft (tailors) did not enrich themselves by them; that they expended considerable sums of money in litigations which came to no account. He did not think that there were more than eight operative tailors belonging to the incorporation, and he believes there are more than that number of king's freemen practising the trade, and that their opinion generally was in favour of opening the trade; that though that incorporation had existed from before 1600, they had never saved more than £20 in cash to the funds; that he is at present treasurer to the glover incorporation, of which there is not at present one operative in the town; that that corporation has been engaged three years in a litigation still pending before the magistrates, and he calculates that it will take all the cash, about £27, now remaining in their funds, to bring the law-suit to a termination.

Various instances of apparent abuse of the exercise of the privileges were laid before the

* Evidence, p. 21. † Evidence, p. 22. ‡ Evidence, p. 14. § Evidence, p. 25.

BRECHIN.

Commissioners. David Guthrie, Esq., one of the magistrates of Brechin, declared "that it had been the practice of some of the incorporations of this place, when they saw a number of applicants coming forward, suddenly to raise the fees of admission, which they conceived they had a right of doing without control. He recollected one case in which the blacksmiths raised the entry money to freemen's sons from 15*s.* 4*d.* to £5. He does not conceive that the exclusive privileges of the incorporations are of any use to the community. Within his recollection, they have caused the ruin of many young tradesmen, who started fair in business, but had their attention engrossed in the affairs of the corporation, and thought more of burgh politics than their own affairs. He thought it would be much for the advantage of the town if the trades were thrown open." James Speid, Esq., provost, is of opinion* "that the exclusive privileges of the different incorporations of the town are of no advantage to the community."

William Grim, deacon convener of the trades of Brechin, an agent for manufactures, and one who had spent all his life in Brechin, referred to the cases of many young men who had been obliged to borrow money to enter with the trades, which had kept them down all their lives, and sometimes completely ruined them. "Within these three months there was a young man, a tailor, from London, who had gone from the town to learn his trade to the best advantage, and he had not worked a day here before the incorporation of tailors came upon him, and forced him to enter at an expense of about £18, which he could ill afford. He knew of another instance, where a young man, a native of the town, was forced to enter with the incorporation of shoemakers, and the expense of his entry money, which is £10, so encumbered him that he failed within a year or two." He stated that "the entry becomes excessively severe upon the shoemakers' handicraftsmen." He declared it to be his conscientious opinion, "that the individual members of the incorporated trades would not be injured by doing away the exclusive privileges of their incorporations. They have the advantage of being already established in trade, and ought to be well able to compete with new comers. He has heard it said that they ought not to lose what they have paid for; but they would not lose the money paid by them, although their exclusive privileges were done away; because, if they choose to divide their funds, they will get each their share, and if they choose to keep up the funds, as a provision for their decayed members and widows, they will still derive benefit from them, and no person not now in the corporation will be entitled to participate in that benefit, unless he pays for it the same as they have done." This individual is an *unhandicraftsman* of the corporation of shoemakers. "He entered with them chiefly for the sake of getting a seat in their loft in the church; and he considers that that privilege of the members of the incorporation would not be at all affected by taking away their exclusive privilege. He knows the monopoly of the guildry is very harassing. He was in the habit of supplying his weavers with hard fish and candles, in small quantities, as they could not afford to purchase a large quantity at a time, which was a great convenience to the weavers. He bought these articles in large quantities, and supplied the weavers with such small quantities as they wanted, and allowed them to pay by degrees out of their wages, which was an accommodation they could not get in the shops of the town; but the guildry immediately interfered with him, and ordered him to desist from selling those articles to the persons in his own employment. They even desired him to desist from furnishing loom-work, such as temples and pirns, and brushes, to the weavers, though they could not get those articles so conveniently any where else."

James Ramsay, shoemaker in Brechin, and one who has exercised the craft as a master shoemaker since 1807, stated to the Commissioners, that though entitled to carry on his trade, and sell shoes to any extent he pleases within the royalty, it was attempted by the guildry to prevent him from selling the soles of shoes, because he is not a guild brother. He resisted this, on the ground that cutting leather was his trade, and they have not since disturbed him. The deacon of the glovers stated, that his incorporation maintained the right of excluding all makers of gloves from the town; that there are now only four voting members in the incorporation, and not one operative glover in the burgh. The funds of the incorporation are £29.

In Brechin there is a charitable establishment, with a revenue granted by James VI., under the management and control of the magistrates and council, from which the widows and children of decayed burgesses exclusively receive aid. The stock of this hospital at present amounts to £1000; and from its revenues about 50 persons are receiving assistance, at the rate of 6*d.* each per week. Burgesses have also the exclusive privilege of their sons being presented to Fife's mortification of £1 7*s.* 9½*d.*, for educating a young man at the school of Brechin. None of the members of the incorporations derive any benefit from the common good.

COUNCIL and MAGISTRATES, &c.

Since 1820, the Town Council of Brechin has consisted of thirteen members, of whom eleven are guild brethren, and two are tradesmen. One of the eleven, called the dean of guild, was elected annually by the guildry incorporation. The two trades' councillors were elected by the six incorporated trades; the remaining number of the council were chosen by the old council; and they chose the magistrates. The office-bearers of the council were six; a provost, two bailies, the dean of guild, a treasurer, and a master of the hospital.

It seemed to be the opinion of several persons of experience in the management of burgh affairs in this town, that it would be expedient to devise some further check than what at present exists upon the expenditure of the public funds. The provost suggested that the treasurer should be a paid officer, receiving, perhaps, the same allowance as if he were a

* Evidence, p. 23.

judicial factor, finding security for his intromissions, and being bound to account in the most rigid manner. Mr. Guthrie concurred in this view, that some further check should be imposed beyond what exists at present, and that some means should be adopted to prevent the funds from being applied to any but purposes evidently of public utility; in particular, that restraint should be laid on the contraction of debt, except for works where the public interest loudly called for it; "indeed, he would say, that debt should not be contracted but for purposes absolutely necessary for the town."

POLICE, &c.

There is no separate Police Establishment belonging to this town, and all the expenses of that department are defrayed from the common good.

DOCUMENTS.

The following documents accompany this Report:

1. Examinations relative to the Burgh of Brechin, taken 20th and 21st September, 1833.
2. Forms of Procedure in the Bailie Court of Brechin.
3. Act by the Magistrates and Town Council of Brechin, for Regulating Buildings within the City of Brechin, and Liberties thereof, 21st December, 1827.

ROBERT GRAHAM.

REPORT

ON

THE BURGH OF BURNTISLAND,

(FIFESHIRE.)

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BURNTISLAND.

THE town of Bertiland, or Bryntiland, or Burntisland, belonged anciently to the Abbey of Dunfermline, and was exchanged by James V. in 1541 for some lands in the neighbourhood, that he might erect it into a royal burgh. It was proclaimed as such in 1568, and afterwards exercised the privileges of a royal burgh. An extract from the charter of erection, in 1541, is quoted in the Report to the House of Commons in 1793. There was produced to the Commissioners an indenture between the Commendator of Dunfermline and the burgh of Burntisland, dated 2nd March 1573; and a charter by King James VI., confirming the preceding indenture, dated 20th March, the same year. Minute of Council, 4th January, 1638.

Since the visit of the Commissioners to Burntisland, Mr. Speid, a member of the council, has discovered an original charter *de novo damus* of James VI., 10th December 1585, which was believed to have been lost. In 1587, (29th July,) the different grants and charters in favour of the burgh of Burntisland were ratified by James VI., with consent of Parliament.

In 1625, Sir Robert Melville, as Bailie of the regality of Dunfermline, brought an action for reducing the charter of erection of the town; but he was induced not to prosecute it, on the town thirling itself to his mills (the sea mills.) There is a blank in the town's records at this date.

A Charter, *de novo damus*, was granted by Charles I., in favour of the burgh of Burntisland, dated 15th February 1632, probably to confirm the burgh in its full rights, for, since 1625, the council seemed not to have considered themselves secure in the possession of them. It is, therefore, upon this charter, and its ratification by the Parliament, 28th June 1633, that the right of the town to its privileges rests. Burgh Records.

The harbour has always been an object of high consideration with the burgh. The charter of 1585 bears, that great expense had been incurred "in constructione et reparatione portus ejusdem Portus Gratiæ vocat." The same term is applied to it in the charter of Charles in 1632. After giving the boundaries of the lands granted to the burgh, it says, "Una cum portu et navium statione dicti burgi nostri de Bruntisland Portu Gratiæ nuncupat." HARBOUR.

The harbour of Burntisland may still be reckoned the best in the Frith, being very capacious, and, at full tide, of great depth. It is easily entered, and very safe. By an extension of the piers, it might, at a moderate expense, be made serviceable at any state of the tide.

Before the Union, it is said that this place was very considerable, and that many of the shipmasters and inhabitants were wealthy. But in 1656, Mr. Tucker only enumerates seven vessels as belonging to this port, none of them 40 tons, and the whole not exceeding 114. And in other respects, he gives a description of the place and its vicinity, which leads to the conclusion that the extent of the trade formerly belonging to it has, in the common accounts, been overrated, by attributing to it alone what belonged to all the little ports on the coast of Fifeshire. "The trade of these ports inwards," says he, "is from Norway, the east country, and sometimes from France with wines; and outwards with coals and salt, at all times very small, and worth little; for although this be the bounds of one of the best and richest countyes of Scotland, yet the goodness and riches of the countrey arising more from the goodness and fertility of soyle and lands than from any traffique, hath made it the residence and seate of many of the gentry of that nation, who have wholly driven out all but theyr tenants and peasants, even to the shoare side." At that period, Kinghorn, Kirkcaldy, Dysart, Wemyss, Leven, Ely, St. Monance, Pittenweem, Anstruther, Crail, St. Andrew's, and South Ferry are all counted as members of the head port of Burntisland; and the tonnage of the whole is estimated at 1,291 tons, divided over 46 vessels.

After the Union, the trade of Burntisland fell off entirely, and little business of any kind was done for a long period. Subsequently, the trade of the town again increased, but for some years back it may be considered nearly stationary. It at present is confined merely to the curing of herrings and their exportation; to the trade connected with an extensive distillery in the neighbourhood; and to the building and repairing of ships. Lately a whale fishing company has been established with two ships. There are at present no other ships employed in foreign trade, and only a very few in the coasting trade. Fewer vessels than formerly resort to the harbour as a place of shelter, probably owing to the improvement of the other harbours on the coast, and to the custom of ships running up to the Hope, a road-stead higher up the Frith, in preference to taking a harbour during a storm; or while otherwise detained, to save the harbour dues. At present, the vessels belonging to the port are in number eight, and their tonnage 900.

The vessels frequenting the port may be taken in two classes.

1. Vessels employed in the trade of the burgh; 11th November 1832, to 11th November 1833; 227 vessels, 9,976 tonnage.

2. Vessels employed in the fishery during the months of July, August, September, and October 1833; 58 vessels, 2,634 tonnage.

BURNTISLAND.

During the great fishing in the Frith from 1794 to about the year 1806, there used to be upwards of 300 sail of vessels, from 15 to 40 tons each, and upwards, attending in this port at one period each year, curing herrings, from the West Highlands, Ireland, England, and the East of Scotland, besides a very great number of fishing boats. But, since the fishing has failed in the Frith, there are not above six or eight vessels that now frequent this port during the winter to catch herrings. Since the improvement of the ferry to Newhaven, the town has become a place of very considerable resort for strangers, chiefly from Edinburgh during the summer. The want of good roads (a want not easily to be supplied, owing to the hilly nature of the adjoining country) is a great bar to the increase of the town.

POPULATION OF BURGH AND PARISH.
1801—1530.
1811—1934.
1821—2136.
1831—2166.

The number of persons resident within the present bounds of the burgh, whose rents in property or tenantry amount to £10 per annum and upwards, is 61, of whom 35 are burgesses. The number of such persons whose rents amount to £5, and are under £10, is 45, of whom nine are burgesses. The number of persons resident beyond the proper bounds of the burgh, but within the parliamentary boundaries, whose rents in property amount to £10 and upwards, is five. Of such persons, whose rents amount to £5, and are under £10, the number is eight. The number of voters in the election of a Member to Parliament is 48.

PROPERTY.

The Property of this burgh consists of the harbour, the three hills, the links, and about one acre of arable land let to tenants, the school and school-house, town-house, flesh-market, shambles, and other property in houses, feu duties, &c.

The revenue of the burgh was from the first very inconsiderable. It consisted of the anchorage of the harbour, the small customs, postship, or duty on hired horses, an impost on wine and coals, and the rent of 10 or 12 acres of arable land, in whole, in the year 1640, about £600 Scots.

The town appears to have suffered severely during the civil war in the seventeenth century, and seemed often to have been on the verge of bankruptcy. The revenue increased very much towards the end of the last century, but the expenditure in a still greater proportion. In that period some useful works were undertaken and completed; but much of the money was spent in lawsuits, in which the town had no interest.

REVENUE.

The Revenue at present arising from the property of the town is stated by Mr. Hutchison, the joint town clerk, as follows:

	£.	s.	d.
Rents	41	8	6
Feu duties	66	2	10
Customs and market dues	7	0	0
Harbour dues	180	0	0
Twopence on pint of ale brewed or consumed in the burgh	20	0	0
(In 1788 the gross revenue was £156 13*s.* 1¼*d.*)	£314	11	4

EXPENDITURE.

The annual Expenditure was stated by the town clerk as follows:—

	£.	s.	d.			
Interest of debt	166	0	0			
Salaries of officers	38	4	0			
Stipends	22	4	1½			
Feu duties	0	17	9½			
Schools	46	0	0			
Repairs, average eight years	50	0	0			
				323	5	11
Excess of expenditure				£8	14	7

DEBT.

	£.	s.	d.
The Debt is all personal, and consists of bonds and bills	4,150	0	0
Due the collector of revenue	66	3	8
	4,216	3	8
But there are claims of the burgh against the inhabitants and others	1,134	17	6
Balance of debt	£3,081	6	2

	£.	s.	d.			
The debt in 1801 was				1,145	0	0
Between that year and 1806 it was increased—						
In 1802 by bringing in water	£1,000	0	0			
In 1805 by building a school-house	800	0	0			
Expenses of harbour and pier	550	0	0			
Repairs upon church	150	0	0			
Law process between the magistrates and burgesses	500	0	0			
				3,000	0	0
This was about the amount of the debt in 1817				£4,145	0	0
And it now amounts to				4,150	0	0

so that for many years back it may be considered as having remained stationary.

The present income, however, under prudent management, and a reduced rate of interest, is barely sufficient to meet the fixed expenditure. There is no fund to meet the repairs on the harbour and quays, which require constant attention and an annual outlay.

ALIENATIONS.

There appear to have been 13 or 14 transactions relative to feus or sales of the burgh property since 1793. Of these the last three appear to have been regularly feued under the provisions of 3 Geo. IV. c. 91. As far as evidence was produced to the Commissioners, none of the others have been disposed of by public roup; and, in five of these cases, a grassum or fine was taken at entry, besides a feu duty payable annually. There are four cases of sales without any feu duty. There is one case where a small portion of the shore was disposed of in 1804, for a simple feu duty of £2 2*s*., without any fine; and this feu duty appears to have been bought up on 10th June 1823, at 25 years' purchase. One other transaction was reported from a separate quarter, where some years back an application had been made for liberty to enclose a small portion of the Middle Brae, which was granted at the rate of 2*s*. 6*d*. per annum of feu duty.

The Commissioners made special inquiries as to some of these cases, and referring to a plan of the town, which was produced by Mr. Anderson, they make the following observations upon those to which their attention was more particularly called.

First.—It appears that, in adjusting marches, part of the Lammerlaws had been given away by an act of the council, and not by public roup, and for a small consideration. The bulk of this part of the property was disposed of before; but in 1793 there was an adjustment of the marches. In 1794, they were further defined. In 1796, certain restrictions were removed. In 1797, the ground round Gallowsknoll was feued, with reservations, for £1 yearly; and this is the part of the transaction which seems to have been most objected to. In 1799, marches were again straitened, and £1 addition made to the feu. In 1802, leave was given to dig for water in front of the workmen's houses; and that space is now enclosed. In 1804, some of the former restrictions affecting the property were removed; and on the 27th July 1807, a petition was entered for leave to erect a small harbour, the result of which was the making of a harbour, but it has since fallen into disrepair and disuse.

At first sight, the advantages in this series of transactions appear to be very much upon one side, but they did not appear to be of sufficient consideration to warrant the time and expense which might be incurred in a more detailed examination of them, though, as the subject was strongly pressed upon the Commissioners, they think it their duty not to pass it over without notice.

Second.—Another transaction which creates some dissatisfaction in the burgh relates to a part of the harbour and rocks called the fishing craig, which in 1804 was feued out by private bargain to the late Mr. Farnie, at a feu duty of £5 yearly, and a grassum of £40, which has not been paid. It seems to be undisputed, that authority was given to Mr. Farnie to enclose this feu in such a manner as to encroach upon the harbour, and to include within his boundary a road that then led to the East Head, the only half-tide and low-water pier in the harbour. A road more to the southward was given in lieu of it. A space of 210 feet in length, and 78 in width, was given to him for a dry dock, and also the liberty of taking or gaining from the sea a rocky space to the southward, without the harbour, for laying timber upon. Mr. Farnie petitioned for ten feet more of breadth for his dock, which (20th October 1804) was granted without any addition to his feu duty. In 1806, leave was granted to alter his gateways, and in 1807 authority was given to build two small heads from his dock-gates into the harbour; to put a footing to his sea walls; to take another piece off the harbour; and, as he found his dock too short, again to change the line of road to the low-water pier, by giving so much of what he had gained off the sea in lieu thereof. These latter accommodations were offered to him without a price.

Mr. Farnie was succeeded by his son, who has not entered with the burgh, nor paid his feu duty since 1828. Some disputes which have arisen between the parties as to the nature and completion of the titles are believed to be the cause of the property being in non-entry.

The Commissioners are of opinion, that there must have been a want of forethought on the part of the council in making these grants to Mr. Farnie, as they may have the effect of cutting off the inhabitants from the easiest and most natural access to the half-tide pier,—a matter of no little importance in looking forward to the further advancement of the town.

Third.—Another case of alienation complained of relates to grants of two pieces of ground near the shore, to the late Mr. William Young, and which are said to be only held by minutes of council (1804 to 1807). After examining these cases, the Commissioners did not think them of sufficient importance to ground any charge against the magistrates who granted them. They consisted of very small portions of ground, given to enable the proprietor to render uniform the lines of some of the best buildings near the shore, and can only be viewed as a trifling sacrifice made for the embellishment of that part of the town.

Fourth.—In 1804, the old school and school-house, and a piece of ground at the Scholars' Brae, were sold by private bargain to Mr. Leven, deceased, for £300. In 1805, he obtained leave to alter a road, and got a grant, by an act of council, of a portion of ground, which he represented as rocky and useless, on the South side of the town. Nothing was adduced to show that the town had sustained a material loss by these transactions; but there appears to have been some laxity in the mode of carrying them into effect.

TAXATION.

Mr. Speid, a member of council, states, on the authority of the records of the town, that an assembly, called a meeting of the community, was frequently held previous to the year 1600, and in one instance at a later date, when any matter of much importance to the burgh was to be considered; and to appoint "stentors" to fix what part of the sums levied by Government from the burgh each inhabitant was to pay. These meetings were called by

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"tuck of drum," and were sometimes held in the open air, and sometimes in the kirk. This seems to have originated the establishment of "head courts," which have only been discontinued within the last 30 years.

In later times, the magistrates and council have always exercised the power of appointing stent-masters and collectors over the burgh and royalty; and besides the collection of cess, they have levied permanent taxes as follows:

Harbour dues and anchorage.
Boat silver.
Small customs.
Flesh-market dues.

The harbour dues are collected under a set of regulations and fixed table of rates, enacted by the magistrates and town council, a printed copy of which, bearing to be extracted from the council records in 1826, accompanies this Report.

The duty of 2*d.* on the pint of ale is under the authority of the 47th Geo. III. (1807,) which continues in force for 31 years from the date of the passing of the Act.

The amount collected from all these sources within the last ten years is as follows:

Year.	Harbour dues, 2*d.* on Pint of Ale.			Boat Silver.			Small Customs.			Flesh Market.		
	£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*
1822	256	0	0	12	0	0	6	0	0	5	0	0
1823	250	0	0	12	19	8	6	0	0	5	0	0
1824	256	0	0	12	11	8	5	0	0	5	0	0
1825	300	0	0	11	13	10	5	0	0	6	0	0
1826	453	15	0	13	0	0	5	0	0	6	0	0
1827	250	0	0	12	7	5	10	11	0	6	0	0
1828	250	0	0	11	7	11	6	5	0	6	0	0
1829	220	18	4	12	7	0	5	5	0	6	0	0
1830	179	16	5½	11	2	4	5	5	0	6	0	0
1831	198	0	0	10	17	0	5	5	0	6	0	0

The application of these sums, according to the information of the town clerk, is,

First.—Towards paying the interest on the town's debt.

Second.—Towards paying the minister's stipend, and salaries of officers.

Third.—Towards paying the repairs on the harbour, town-house, church, school and school-house, &c.

The amount of cess annually raised varies from £11 to £12 on land, and £4 to £5 on trade; total £15 to £17. The land-cess is charged by stent-masters at 1¼*d.* per £1 of rent; and on the merchants, in proportion to the trade they carry on, from 3*d.* to 2*s.* yearly; but a great many of the smaller assessments are not made effectual.

	£	*s.*	*d.*
The sum paid to Government yearly is - - - -	11	14	0
Expenses paid at meeting of stent-masters - - -	3	10	0
	15	4	0

There are no burgesses or inhabitants entirely exempted from the burgh taxes, except on account of poverty; but all burgesses pay only one-half of the shore dues and other dues, when importing or exporting any goods to or from the burgh, either by land or sea.

JURISDICTION.

The Jurisdiction of the magistrates and council extends over the whole royalty, in terms of their charters. There is a bailie court, and also a dean of guild court, held within the burgh. Mr. Speid, from his knowledge of the records, states, it was only civil cases which came before the burgh court in earlier times, and that when the facts were not admitted by the parties, the cause was remitted to a jury of fifteen burgesses, nominated by the bailies. In later times, causes both civil and criminal have been tried by the magistrates; civil, of a personal nature, to any amount; the criminal cases are confined to inferior offences, as riots, thefts, &c. &c.

The number of each class which have been brought into court annually, since the beginning of 1802, are:

Year.	Civil Causes.	Criminal Causes.
1820	6	2
1821	6	2
1822	13	1
1823	5	1
1824	14	1
1825	6	1
1826	15	4
1827	25	4
1828	10	None
1829	18	None
1830	15	None
1831	4	3
1832	16	10
1833	20	2

The defended cases are not here distinguished from those in which decree passed in absence.

In judging in these cases, the magistrates are not in general assisted by any assessor. The town clerk does not usually sit as assessor; but if any difficulties occur in point of law, they take his advice.

It appears to be the general opinion in this burgh that it would be very beneficial to extend the jurisdiction of the magistrates over the whole territory included within the parliamentary boundary. This would include the village of Kirktown, where there are no magistrates, and where there are frequent brawls and disturbances. The town's officers cannot interfere as to these; and when the county constable acts, he cannot bring the parties before the magistrates, but must carry them before a justice of peace for the county. There is only one resident justice in the neighbourhood, and when he is from home the delinquent must be carried many miles before his case can be examined.

PATRONAGE.

The magistrates and the town council have the Patronage of the following offices:

1. Two town clerks, joint in the office.
2. The collector of the revenue.
3. The procurator fiscal.
4. Two town officers.

These office bearers are appointed by the magistrates and town council, or a majority of them assembled in council. No price or consideration is paid for the appointments.

The town clerks hold their situation for life. The other office bearers hold their appointments during the pleasure of the magistrates and council, and may be dismissed by them or majority of them.

The duties of none of these officers are performed by deputy, and no security is exacted from those who fill them. They are all paid by salary. The town clerk's is £15 a-year; the collector of the revenue, £5; the procurator fiscal, £2; the town officers have £6 each per annum. The procurator fiscal has right to one-third part of the fines exacted for riots. The town clerk and town officers have certain fees from actions brought before the court, conform to a table thereof, a copy of which is herewith produced.

The burgh has no patronage of any church, the patronage of the parish church being vested in the Crown. The burgh, as holding heritable property in the parish, pays £22 4*s*. 1½*d*. yearly, as part of the minister's stipend. The remainder is paid by the landward heritors, and it amounts in all to from £200 to £250 a-year.

The burgh school has always been under the direction of the magistrates and council, and the teacher is appointed by them. His salary is £37 a-year, and is paid out of the burgh revenue. The regulated fees are, for English reading, 2*s*. per quarter; ditto, with writing, 2*s*. 6*d*.; with arithmetic, 4*s*. 6*d*. Latin, with Greek, French, arithmetic, mathematics, English grammar, geography, 6*s*. per quarter. Navigation and book-keeping, 21*s*. per course. These fees have been the same for the last twenty years. All regulations for the school are made under the sanction and control of the magistrates. The number of scholars attending annually for the last ten years average 140.

There are certain lands in the parish mortified by a Mr. Watson, and a house and garden in the burgh for behoof of the schoolmaster and three poor widows, the names of Boswell, Watson, or Orrock, having the preference in the appointment. Each of the widows has an allotment in the house, and each a third of the garden. The land is let to a tenant at a money rent of £18 10*s*., and 34 bolls of barley and six bolls of oatmeal yearly, the growth of the lands; and if he has no barley on the lands, he is bound to pay the highest Mid-Lothian fiar prices for the barley and oatmeal. Ten bolls of the barley and one-fourth of the money rent are paid to the schoolmaster, for which he is obliged to teach as many poor children belonging to the town and parish as the magistrates recommend, at the rate of 1*s*. 8*d*. per quarter; the number of scholars not to exceed, at this rate, the sum he may draw yearly. The rest of the barley, oatmeal, and the money rent, is divided equally among the three widows. The terms of this mortification seem to be faithfully attended to in practice. An account of the management of this fund for five years was returned along with the other returns to the House of Commons from this burgh, from which the account from 1830 to 1831 is extracted as an example.

	Bolls.		
James Young, the tacksman of the mortified lands, delivers in barley		34	
And in oatmeal		6	
		40	
	Bolls.		
Of which the schoolmaster receives in barley	10		
The three widows ditto, at eight bolls each	24		
Ditto ditto, two ditto, oatmeal	6		
	—	40	
		£. *s*.	*d*.
The tacksman also pays of money rent		18 10	0
	£. *s*. *d*.		
Of which, one-fourth to Mr. Davidson, schoolmaster	4 12 6		
Ditto, one-fourth to widow Margaret Orrock	4 12 6		
Ditto, one-fourth to widow Mary Orrock	4 12 6		
Ditto, one-fourth to widow Margaret Rose	4 12 6		
		£18 10	0

The widows and the schoolmaster pay 10*s*. each to the factor as his fee.

BURNTISLAND. EXCLUSIVE PRIVILEGES.

The qualification of being a guild brother is necessary before any one can manufacture or trade within the bounds of the burgh. The dean of guild court is in the practice of levying a fine from merchants trading without this qualification, which is exacted yearly, until they enter the guildry; and the trades have been in the practice of preventing unfreemen from working until they enter with their respective trades or crafts, unless they be King's freemen. No one is admissible as a member of the guildry, or of any of the crafts, unless he has been previously admitted a burgess of the burgh.

From the earliest times, various classes of craftsmen were accustomed to complain to the council of unfreemen trading in the burgh; but there is no appearance of any of them being formed into separate societies till 1608, when the maltmen were allowed by the council to have a box and a "mutual band," and to levy a certain sum for each boll of malt that was made, for the support of their poor. In their petition for those grants, the support of the poor is the only reason assigned; but afterwards they petition against strangers bringing in their commodities under the plea that they are able to undersell them, because they are not subject to the burden of watching and warding, nor the taxations to which the inhabitants of a royal burgh are subjected.

In 1655, the trades seem to have been regularly formed, and, besides the seven trades aftermentioned, they consisted of the maltmen, the sailors, and the hirers. The trade of malting is not carried on in the burgh, but there are one or two individuals who still go under the name of maltmen. The sailor association is still in existence, and is a wealthy society. The last is wholly extinct. They were the persons who kept the post-horses, and were a numerous body. None of these three societies was ever incorporated. The other seven trades were not constituted corporations for many years after their association.

In 1681, they brought an action against the council to compel them to grant them charters. The council opposed this, and were supported in their opposition by the sailors and merchants. The court refused to ordain them to be erected into incorporations, but ordered the council to appoint annually a visitor for each trade, whose duty it was to prosecute unfree or unskilful workmen before the magistrates. The trades were interdicted from holding meetings. It was ordered that in future the council should consist of one-third of craftsmen.

In 1683, the seven trades now existing, viz.: the hammermen, the wrights, the tailors, the websters, the shoemakers, the fleshers, and the bakers, were fully incorporated, *without any previous notice in the council book,* with all the privileges usually conferred on such bodies, except that of their deacons having right to a place in the council. The practice, however, for some time afterwards was for the council to elect the deacons as trades' councillors. In this way, these bodies proceeded by degrees from what would now be reckoned the state of *benefit societies* to the full condition of *corporations*, with the possession of exclusive privileges.

The guildry originated in an association of merchants. "The first appearance of the society was in 1606, when they had 'a box' and a collection among themselves for their poor." At this time, they claimed the exclusive right "to pack and peel" staple wares within burgh,—a claim which seems not to have been allowed them. In 1695, they petitioned the council that a guildry might be instituted; but there was nothing done at that time, nor till 1710, when they were incorporated under the name of "the guildry." The council, however, assumed to itself the uncontrolled right of appointing the dean of guild, and guild council to be joined with him, both in the exercise of his judicial functions and in managing the affairs of the incorporation.

The fees payable on the admission of burgesses are,

	£.	s.	d.
For brgesses' sons, or those married to burgesses' daughters	1	0	2
Clerk's fee	0	10	6
	£1	10	8

	£.	s.	d.	
For strangers	3	0	2	
Clerk's fee	0	10	6	
				£3 10 8

The fees for entry with the guildry,

If a freeman's son, or married to a freeman's daughter	1	10	0
If a stranger	2	10	0

The number of burgesses and guild brethren residing are	75
Not residing	7
	82

The funds of the guildry amount at present to £285 12*s.* 3*d.*, which is lent to the town and others. Out of this fund, certain small allowances are made to widows of guild brethren. The incorporation have no widows' scheme. They have always made a point of maintaining their privileges, but are represented as being indulgent in exerting them. They allow unfreemen to trade upon paying a fine annually, and when a person is poor, such as the widow of a burgess not a guild brother, they do not interfere with them at all.

Of the several corporations and crafts within the burgh, the hammermen and wrights now form a united corporation, with separate conveners. This corporation includes also the masons, smiths, and slaters. There are five corporations besides.

	In Number.	Entry Money. £.	s.	d.
The Hammermen are	12	10	0	0
Tailors	5	5	0	0
Weavers	2	0	0	0
Fleshers	1	0	0	0
Shoemakers	12	5	0	0
Bakers	4	4	10	0

Each craft, except the weavers, who are divested of the privilege by statute, claim the exclusive right of working at their own craft within the burgh; all resting on recorded charters, granted by the magistrates in 1683. Some of these (such as those of the bakers and fleshers) allow all unfreemen to bring their goods into town for sale on market days. No temporary licences are granted to unfreemen, and there are none such resident and carrying on trade within the bounds. Beyond the limits over which the privileges extend, and within the parliamentary boundary, there are two persons exercising their calling as shoemakers, and one individual who would be classed with the hammermen.

The corporation of hammermen used to have funds, and were connected with a friendly society, according to the regulations of which they allowed their widows 30*s.* a-year; but this last year they divided their funds, and the widows have not received their allowance. They have also some heritable property, and seats in the parish church; but they are said to be meditating the disposal of these likewise.

The corporation of bakers have seats in the church, the revenue from which they divide among themselves yearly.

The other corporations have all seats in the church, but no other funds.

None of the burgesses nor members of the incorporations derive any direct advantage from the common good of the burgh.

On the question as to the value of the exclusive privileges, there is considerable diversity of opinion in this burgh. The provost, Mr. Young, does not consider them of the slightest value either to the town or to the members of the corporations. He does not think that the profit of the trades would be much diminished by throwing the town open; but he thinks it would be a hardship upon those who have paid entry money to be forced to allow others to work in the town who have not paid. Mr. Milne, the first bailie, and who had himself been deacon of the wrights, concurred in the same view. As far as he knew, there is a sufficient number of workmen in the town now for supplying all demands for work, and he did not think that by throwing open the town the price of work would be lowered. The corporations themselves are evidently very jealous of any encroachment upon their privileges. The convener of the trades (one of the tailor incorporation) said, "That if they find an unfreeman carrying work into town, either finished or unfinished, they are entitled to seize it, and retain it, till he pays a fine of 40*s.* Scots to the craft, and the like sum to the burgh; and, if the work is not finished, they are entitled to have it finished by one of the incorporation, who receives payment from the owner of it. If a member of the incorporation spoils the clothes intrusted to him, the owner may complain to the deacon, and he will make him pay the damage. The deacon and the incorporation regulate the prices to be paid for work, to which the members of the corporation must adhere. They also regulate the wages between master and journeyman, and settle all disputes between them, and also between masters and apprentices. They are bound to go and serve the neighbours of the town in their own houses, if they require it, and to work from five o'clock in the morning till eight o'clock at night, at a rate fixed by the deacon and incorporation. The declarant is perfectly acquainted with the seals of cause of the other incorporated trades, now in his custody, as deacon convener, and they all confer exclusive privileges upon them, the same as above stated, with this exception only, that they are not all bound to work for their neighbours in their own houses. That he does not reckon the exclusive privileges of much value. The prices at which they work are very low; about 5*s.* a suit lower than the Dunfermline prices. Their price here for the best suit is 12*s.*; and he does not think the price would be lower if the town were thrown open; but his own feeling, and the general feeling of his incorporation is, and he may say of all the incorporations, that what they have paid for should not be given to others, without their paying for it. They consider it a right which they have acquired by purchase, and which they are entitled to keep. Declares that he thinks in the small towns work would be miserably done if the trade were thrown open. Apprentices would begin as soon as they were out of their apprenticeships. At present an apprentice serves five years, and then he may receive his freedom.

"Declares that he does not think that the opening up of the trade in other towns would be of much advantage to his incorporation; although it would enable them to move to, and carry on their trade as masters in, any of the other royal burghs in Scotland, yet it would not much benefit them. There would be such a run upon the towns where trade was brisk, that the numbers flocking into it would soon make prices very low."

On the other hand, Mr. Archibald, one of the bailies of the town, gave it as his opinion that the circumstance of the dues exacted by some of the trades from stranger intrants being so high as £10, may have the effect of preventing workmen from coming from other places to settle in the town, which he thinks must be hurtful to the interests of the community.

ELECTION OF MAGISTRATES AND COUNCIL.

From the time of the earliest records of this burgh (1596) the government of the burgh was in a Provost, three Bailies, a Treasurer, and a Procurator Fiscal. From 1630 to 1690 there was no provost. Since that time the rule appears to have been to elect a provost, though on some occasions there was none chosen. This magistrate, from the earliest times,

BURNTISLAND.

is said to have been, with few exceptions, a nobleman or landed gentleman; a kind of patron of the burgh.

The office of treasurer for twenty-five years has been merely nominal, the duties of the office being performed by the chamberlain.

The old council, with as many assessors added as would make up the full number of twenty-one, elected the new council. The number remains the same to the present day. It is the general opinion in the burgh, that this number is much too large for the present population. There are only thirty-one burgesses at present qualified to be elected; and this number is not likely to increase, as there is no great inducement to enter. At the election, in November 1833, a sufficient number of qualified persons could not be found to fill up the council, and the old magistrates and council remain in office.

POLICE. There is no local statute for the management of the Police. The magistrates and council are in the practice yearly of letting the right of collecting the street manure, and the whole duty of cleaning the streets falls upon the tenant. There is no regular system of lighting and watching. Water was brought into the burgh in the year 1803, by the magistrates and council, at an expense of £1000. The inhabitants agreed voluntarily to contribute as much as would pay the interest of the sum advanced, and what was necessary to keep up the water establishment; and this was done for a year, but the second year they refused to pay.

The funds of the burgh did not enable the magistrates and council to apply for an Act of Parliament, and the whole expense was defrayed out of the burgh funds till 1822. At that period the charge of keeping up the wells was allowed to go into the hands of a committee, consisting of four of the council and four of the inhabitants, who by this time had agreed to contribute to the support of repairing the water-pipes. The magistrates, however, reserved to the burgh the property of the lead-pipes, cisterns, &c. The water establishment has been managed in this way ever since.

GAOL. The Gaol of Burntisland is very small and incommodious; but it is clean, and seldom used.

DOCUMENTS. The following Documents accompany this Report:

1. Answers to Heads of Inquiry issued by the Commissioners. 18th October, 1833.
2. Notes by Mr. Speid, relative to the early History of the Burgh.
3. Statement of Duties, &c. exigible at the Harbour of Burntisland, and Customs payable in Burgh.
4. Act for levying Twopennies on Pint of Beer or Ale vended in the Burgh.
5. Examinations relative to the Burgh of Burntisland. 18th Oct., 1833.
6. Table of Town Clerk's Fees.
7. Plan of Burntisland.

ROBERT GRAHAM.

REPORT

ON

THE BURGH OF CAMPBELTOWN,

(ARGYLESHIRE.)

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CAMPBELTOWN.

THE town of Campbeltown lies within the parish of the same name, in the district of Argyleshire called Kintyre. It was originally a burgh of barony. It was erected into a royal burgh, by Crown charter, by King William III., dated 19th April, written to the seal and registered the 4th, and sealed 5th June, 1700. The charter recites the statute 15th James VI., c. 267, by which it was statute and ordained, "for the better entertaining and continuing of civility and policy within the Hielandes and Iles," "that there be erected and builded within the bounds thereof three burghes and burrowe-towns, in the maist convenient and commodious partes meet for the samen; to wit, ane in *Kintyre*, another in *Lochaber*, and the third in the *Lewis*;"—and gives as reasons for the erection that Inveraray, distant about 60 miles, was then the only royal burgh in Argyleshire; that the burgh of Campbeltown was a very fit and convenient place to be erected into a royal burgh; and that the Earl of Argyle, to whom the same belonged in fee, was anxious for the erection. CHARTER OF ERECTION.

The Boundaries of the burgh, under said charter, are, the Loch of Campbeltown, formerly called the Loch of Kilkerran, on the east; the lands of Kilkerran and Corshill on the south; the lands of Moy on the west; and the lands of Ballingregan and Drumore on the north. Boundaries.

The royalty of the burgh lies within the above bounds, and still belongs wholly in property to the Duke of Argyle, with the exception of certain feus held under him, and granted previous to the charter. It is stated that there have been no feus granted since the date of the charter. The Duke and his predecessors were formerly in the practice of granting building leases to the inhabitants for the term of three or four nineteen years; but latterly it has been considered that such leases are precluded by the terms of the Argyle entail. Accordingly, since 1828, no leases have been granted for a longer period than nineteen years; and it is stated, that even when existing leases, originally for a longer endurance, fall in, no renewal is now granted for more than nineteen years. No part of the territory within burgh is held in burgage. The population of the burgh, of all ages and sexes, is, by the last census, 4,869. Royalty or Territory of Burgh, and its Tenure and Population.

The Parliamentary Boundaries of the Burgh, for the Election of a Member of Parliament, extend considerably beyond the royalty, and include the adjoining lands of Dallintober, Lochend, and Dallaruin. The proprietors of these lands are in nowise fettered, and are in the practice of selling and feuing portions of their lands. The consequence is, that the town of Campbeltown is extending beyond the royalty in the direction of these lands. A considerable number of houses have been erected, and there is now a population of from 1,400 to 1,500 inhabitants on the lands of Dallintober and Dallaruin. Parliamentary Bounds of Burgh.

It was stated by the provost, by one of the bailies, and by the town clerk, that the want of power in the Duke of Argyle to grant feus or leases for more than nineteen years was considered to be of great disadvantage to the burgh, as opposing a very material obstacle in the way of its growth; and that it is not less prejudicial to the interests of the family of Argyle, inasmuch as the returns which they might obtain from unoccupied grounds within the royalty and its immediate neighbourhood, under feus and building leases, would be greater than can be had from any use to which the lands can be applied at present; and that the evil was aggravated from the want of power to grant renewals, unless for the term of nineteen years. It was also stated, that the consequence had already been very sensibly shown in the enhancement of the value of the other adjoining properties, whose owners are not similarly fettered, and more especially in the gradual extension of buildings to the north and east of the proper royalty, on the Dallintober side of the march. It was further stated, that, were the present restraints in the way of the extension of the burgh within the proper royalty to continue, there could be no doubt that the facilities existing on the Dallintober side would render it of advantage that the limits of the burgh should, for all purposes, be extended to the parliamentary boundary; and, in any view, were the inhabitants of the latter district to be placed on a perfect equality, as to privileges and burdens, with those of the proper royalty, it was thought that the result would be advantageous for both. The parties who give this evidence were not, however, prepared to say, that such would be the case, if the Dallintober district were to remain, as now, exempt from liability to the ladle-dues, causeway-dues, and other burgh taxes.

Mr. Galbraith, the superior and in great part proprietor of the lands of Dallintober and Dallaruin, stated it to be his opinion, that, so far as these lands are situated within the parliamentary boundaries, they should be incorporated with the burgh:—that as Campbeltown has no burgage property, and as the petty customs constitute its only revenue, these customs should be made exigible from the inhabitants of Dallintober and Dallaruin;—and that such inhabitants should in return acquire the whole rights and privileges of burgesses. He, in consequence, solicited the junction of these lands with the burgh, reserving to him and his successors his feudal rights, as superior or proprietor.

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Mr. Stewart, chamberlain for the Duke of Argyle, concurred in the above statement, in so far as regards the present holding of the property within the royalty; and the want of power in the family of Argyle latterly to grant either feus or long leases. He mentioned, however, that it was in contemplation by the family to effect some arrangement by legislative enactment, or otherwise, for obtaining larger powers, in which event the difficulties alluded to would be in a considerable degree, if not altogether, removed:—that he did not consider it would be disadvantageous for the inhabitants if they could obtain building leases for a period of from two to four nineteen years, as they would obtain these subjects at a more moderate rent, while it was not likely there would be any disadvantage on the termination of the tenant's interest to counterbalance the extent of benefit derived during its currency; that, besides, the family of Argyle had always taken so deep an interest in the welfare and prosperity of the burgh, that the leases granted by them had invariably been more favourable for the tenants than in ordinary circumstances the latter would have been entitled to look for;—and that as to any speculative objection in regard to the power which a system of lease-holding might eventually give to the family of Argyle, in putting an end to the burgh, by ceasing to grant renewals, the past conduct of the family, and their own obvious interests, were the best securities to the public against any evil of this kind.

Mr. Stewart did not agree with the other gentlemen in regard to the expediency of extending the royalty over the parliamentary bounds. His main reasons were, that the two districts must always have conflicting interests, which would lead to disagreements;—that, even were there nominally to be introduced an equality of burdens, it would not be likely to have any wide practical operation, inasmuch as, immediately beyond the parliamentary bounds on the east, it would be possible to erect a new quay, where grain and other articles might be loaded and landed free;—and that it would be for the interest of the proprietors on the Dallintober side to secure for themselves, and for all holding under them, whether within or without the parliamentary bounds, such an opportunity of evading the burgh dues, the moment the present quay on the Dallintober side, and the roads leading to it, were thrown within the royalty.

Sett or Constitution.

The council consists of one provost, *two or three* bailies, (in Charter "duos vel tres ballivos,") one dean of guild, one treasurer, and twelve councillors.

Under the charter, the old council annually elected the new council, and the old and the new council together elected the provost out of a leet of three persons, and the bailies out of a leet of six persons, both of which leets were presented by the Duke of Argyle. If the Duke failed to present a leet, power was given to the burgh to elect their magistrates for that year. No change has taken place on this Sett since the date of the charter, until the recent statute, by which the right of election has been vested in the householders and proprietors.

Office Bearers and Servants.

Power is given by the charter to the provost, bailies, and council, to elect commissioners to Parliament, and to the *general assembly* and convention of royal burghs, with other Office-bearers for the good government of the burgh. The magistrates and council elect the town clerk, town treasurer, and two town officers who officiate also as gaolers. They also appoint a keeper for the weigh-house, and another for the washing-house, belonging to the burgh, and occasionally a collector for the stent, when it is not farmed. These persons are all chosen by vote of the council, and no price is paid for their offices. The town clerk holds his office for life, the town treasurer from year to year, and the others during the council's pleasure. None of the offices are performed by deputy; and no security is exacted for the proper discharge of their duties.

Corporations and Exclusive Privileges.

Power is given by the charter to have a free merchant's guild, dean of guild court, and council and members thereof, and to have all merchants and tradesmen whatsoever, as in other royal burghs. But there are no corporations, either of merchants or crafts, within burgh. The only distinction known among the inhabitants is that of freeman or burgess, and unfreeman. The fees payable for admission as burgess are, to a stranger merchant £3 3*s*., and to a stranger craftsman £2 2*s*. The son, son-in-law, and apprentice of a freeman are admitted on the payment of half of these dues.

It has been stated, that the magistrates have always conceived themselves entitled to insist that persons shall enter burgess before they deal in merchandize, or carry on a craft within burgh; but, though they have frequently urged such persons to enter, they have never compelled their entry by action, interdict, or otherwise. Individuals, however, have not unfrequently found it for their own interest to enter, the dues on goods leviable from unfreemen being higher in certain cases than those leviable from burgesses.

It is not the practice to grant temporary licences to *resident* unfreemen; but when itinerant dealers come to the burgh, certain small sums, regulated in amount according to the extent and value of the goods they are to sell, and generally varying from 15*s*. to £2 2*s*., are exacted from them. All these fees are paid into the general funds of the burgh.

It has been stated that there is a considerable number of persons resident within the parliamentary boundaries, but beyond the limits of the exclusive privileges of the burgh, who exercise, and are entitled to exercise, the same callings with the freemen or burgesses within the burgh.

The burgesses have no advantages peculiar to them or their families other than those above noticed; and none of the burgesses individually derive any advantage from the common good of the burgh, which the other inhabitants do not enjoy in common with them.

The town clerk states, that according to the best of his knowledge, the number of existing burgesses is about 97; but that the materials for framing a list prior to his appointment in 1822 are not very accurate. A list of the number admitted in each year, from 1801 to 1831 inclusive, has been furnished. In five of these years none were admitted; in six only one

each year; in eight only two each year. The average on the whole period is only about four each year.

POPULATION. The town clerk further states, that the number of persons resident within the royalty, whose rents in property or tenantry amount to £10 per annum and upwards, is, according to the best information he has access to, 165, of whom 74 are burgesses; the number of those whose rents amount to £5, but under £10, 112, of whom 14 are burgesses; and the number of those whose rents do not amount to £5 per annum 422, of whom nine are burgesses:—That on the other hand the number of persons resident beyond the royalty, but within the parliamentary boundaries, whose rents amount to £10 and upwards, is 40; the number of those whose rents amount to £5, and not to £10, 21; and the number of those whose rents do not amount to £5, 214. In all of these estimates male householders only have been included.

ELECTORS. The number of registered Electors within the parliamentary boundary is 153, of whom 120 are within the proper royalty.

PROPERTY, &c. The burgh has no Property; unless it be certain subjects held under the Duke of Argyle, partly by lease and partly without any written title.

First.—*Town-house and Tolbooth.* The burgh had originally a tenement of its own, which was used as a town-house and tolbooth. But by deed of excambion, dated 2nd November and 16th December 1754, and recorded in the sheriff court books at Inveraray 7th October 1813, 10 feet of this tenement was conveyed to the Duke to enable him to widen the street; and, in return, his Grace conveyed to the burgh 10 feet of a different subject, and became bound to grant to the burgh a lease for 99 years of as many feet more as might be necessary for erecting a new town-house and tolbooth of a proper size. It was under this deed that the present town-house was built, and it is understood that 20*s.* of rent which the burgh pays to his Grace is for that part of the property which is held in lease.

Second.—*School-house.* This is erected on ground held by the burgh under a lease from the Duke of Argyle, dated 3rd October 1792 and 27th September 1799. The lease runs for 57 years from Whitsunday 1792. The rent is 5*s.* per annum.

The interests of the burgh, and those of the Duke with respect to the property of the burgh, are said to have been always considered as so much the same, that when any subject was got from his Grace for public purposes, the burgh, in reliance that the property would never be resumed, had no hesitation, even in the absence of any proper permanent title, in building on or otherwise adapting the same for those purposes at the expense of the community. The town-house and school-house were so erected.

Third.—*Washing-house and Green.* About ten or twelve years ago, the burgh obtained from the Duke a piece of ground of about two acres for the purpose of establishing a public washing-green, upon which they proceeded to erect a washing-house, and what other accommodation was necessary, at the public expense. No title was got to this subject, for which the burgh pays a rent of £7 15*s.*, being its full yearly value. Certain dues are levied for the use of the green. The nett proceeds, after paying the rent, keeper's wages, and other expenses, are paid into the general funds of the burgh.

Fourth.—*Mill.* As far back as the records go, it appears that the burgh has held from the Duke a mill, with some thatched houses and a piece of ground attached, for which they paid a money rent of £2 9*s.* 1*d.* and 50 bolls of multure meal. Some years ago, a smaller mill belonging to the Duke was suppressed, and the sucken thrown into the Campbeltown mill; in consequence of which an arrangement was made with his Grace, that the burgh should pay 15 bolls of additional multure meal, the quantity of which was thus increased to 65 bolls. The burgh holds no written title to the mill, &c.; but here, again, in the confidence that no change was likely to take place, considerable expense has from time to time been incurred in the extension and improvement of the subjects. Certain dues are levied at the mill. The proceeds, after paying the rent, wages to the miller and multurer hired by the magistrates, and other expenses, are paid into the general funds.

Fifth.—*Market-house or Weigh-house.* The burgh hold a lease under the Duke of a small piece of ground for which they pay a rent of 30*s.*, and on part of which a market or weigh house has been built. The lease runs for 57 years from Whitsunday 1793. Certain dues are also levied at this weigh-house. The proceeds, after paying the keeper's wages, &c., are paid into the general fund.

Sixth.—*Area in Parish Church.* At the time when the heritors of the parish were erecting the present parish church, the Magistrates and Council made an arrangement by which, on contributing a portion of the expense, they were to be entitled to two fifth shares of the area for behoof of the burgh population. The council minute book from 1778 to 1780 contains various minutes explanatory of this subject. The magistrates and council have accordingly from 1780 downwards held two fifths of the church in property, and have derived a portion of their annual revenue from the seat rents.

Seventh.—*Harbour.* By the charter, the burgh has a right of free sea-port called "Port Campbell," in the Loch of Campbeltown, or in any other part or parts within the limits of the said loch as shall appear most convenient, with anchorage, dock silver, plankage, and other dues and emoluments, to be applied for the use of the burgh, with power to impose, levy, and collect the same in the same way and as freely in all respects as any other royal burgh.

Eighth.—*Markets and Fairs, with Dues and Customs.* Power is given by the charter to hold a weekly market on Friday, and three yearly fairs, each of them to continue for the space

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of eight days; the first to begin on the 1st of August, called the fair of the feast of St. Peter, *ad Vincula*, or Lammas fair; the second on the 1st of October, called Michaelmas fair; and the third on the 1st November, called Hallow fair. The whole petty customs of these markets and fairs belong to the burgh.

Ninth.—*Debts.* There are no debts due to the burgh, beyond what appears on the face the town treasurer's accounts, viz.:

1. Debts.	£.	s.	d.
Kintyre road trustees	71	2	11
James Campbell's heirs	23	15	7½
Dr. Rowalt's heirs	29	5	2
William Langlands	13	15	0
Alexander Maitland, miller	8	14	9
John Dunlop's heirs	7	3	9
Mr. Macniel, of Ugadale	1	10	0
Mr. Colin Matheson	14	14	9
Mr. Galbraith, of Machrehanish	9	2	0
John Breakanridge, Killenaw	5	12	0
Archibald Dunlop, hosier	21	18	6
	£206	14	5½

	£.	s.	d.			
2. Arrears of church-seat rents due at Whitsunday 1833 and preceding	13	3	6			
Ditto rents of house and park ditto	21	8	0			
Ditto sundries for burying ground	25	6	0			
				59	17	6
				£266	11	11½

Tenth.—*Cash.* The only cash belonging to the burgh is—

	£.	s.	d.
Cash in the Renfrewshire bank	51	18	6
,, treasurer's hand	87	18	10½
	£139	17	4½

Debts. The only Debts of the burgh are a sum of £450 due to Miss Mayne, and an annuity of £11 to Miss Macnab, who is about 80 years of age or thereabout. The current accounts due to tradesmen, of course, are not stated.

Annual Revenue. It appears from the Treasurer's account for 1833, that the annual revenue of the burgh is as follows:

	£.	s.	d.			
1. Rents of houses and parks	60	9	10			
2. Rents of church seats	62	13	0			
3. Ladle and causeway customs	282	0	0			
4. Tonnage and petty customs	5	0	0			
5. Anchorage and shore dues	120	0	0			
6. Sea ware	6	18	0			
	£537	0	10			
7. Stent	93	19	0			
8. Nett proceeds of washing-house	15	10	2½			
9. Ditto weigh-house	21	10	3			
				37	0	5½
Total,				£668	0	3½

Besides other incidental receipts of small amount, such as the interest of money in bank, fees of admission as burgesses, &c.

Annual Expenditure. The Annual fixed Expenditure appears, from last account of the treasurer, to be as follows:

1. *Salaries.*	£.	s.	d.
Town clerk	5	11	1
Town treasurer	10	0	0
Town officer and Gaoler	18	0	0
Constables	33	5	2
	£66	16	3
Mr. Brunton, rector of schools	17	2	4¼
	£83	18	7¼

	£.	s.	d.			
2. *Rents and taxes.*						
Rent to Duke of Argyle	12	19	1			
Cess, or Land Tax	7	16	0			
Missive dues to Convention of Royal Burghs	8	12	0			
				29	7	1
Carried forward				£113	5	8¼

	£.	s.	d.	£	s.	d.
Brought forward				£113	5	8¼
3. *Lighting streets.*						
Paid for gas	42	10	0			
Paid lamplighter	15	11	1½			
				58	1	1½
4. *Harbour Light.*						
Paid for oil	16	3	0			
Keeper's salary	5	6	8			
				21	9	8
5. *Cleaning streets.*						
Paid for this	43	10	10½			
Deduct sales of fuilzie	22	12	5			
				20	18	5½
6. *Annuity and interest on debts.*						
Annuity to Miss Macnab	11	0	0			
Interest to Miss Mayne	18	0	0			
				29	0	0
				£242	14	11¼
Payments for limited terms.						
Retired allowance to Mr. Macmillan, late rector	25	0	0			
Gratuity to Mr. Thomson's widow	5	0	0			
				30	0	0
Incidental payments.						
Repair of public works and buildings—						
Sundry accounts	59	16	7			
Repairs of school-house—						
Mason 29 1 0						
Wright 14 5 0						
	43	6	0			
				103	2	7
Lamps for streets, &c.				9	14	7
Harbour light, slater, and wright's account				9	3	10
Law business and expenses				64	1	10½
Alimenting of prisoners				30	9	6
Miscellaneous payments				35	6	0
				£524	13	3¾

The annual Revenue generally exceeds the annual expenditure. The magistrates and council have always been in use to apply the balance in improving the public works, or in extending the comforts of the community, *e. g.*, by bringing in water, &c.

	£.	s.	d.
It has been seen above, that last year (1833) they expended in repairing the school-house and making other repairs the sum of	103	2	7
They also expended in improvements on the harbour	162	11	9
And in improving the supply of water	130	3	1
	£395	17	5
In 1829, they expended in improving			
The Quays	762	2	5
Other works	124	2	9
	£886	5	2
In 1830,			
On the quays	555	2	11
Other works	40	8	9
	£595	11	8

TAXATION.

The magistrates and council have no power to impose and levy Taxes and assessments, except what they enjoy by virtue of their charter, and immemorial usage. The charter gives to the provost, bailies, and common council power to impose taxes for necessary purposes according to the usage of other royal burghs; and for that effect to appoint collectors and others. The taxes actually levied are,

1.—*Ladle dues, causeway customs, tronage and petty customs;* 2. *Anchorage, quayage, and short dues.* Printed copies of the present tables of these various dues were delivered to the Commissioner, and are herewith produced. They appear to have been sanctioned by minute of council, 14th September 1799. Similar dues appear to have been exacted as far back as the council records go, viz., 1700. The rate of charge has varied from time to time, the variations having always been regulated by acts of council. The town clerk has furnished an excerpt of all such acts of council, and the relative tables of dues.

3.—*Stent* on *trade and property.* This is of as old an existence as the above-mentioned taxes. It is imposed by stent-masters, selected by the magistrates and council from among such persons of different callings in town as are supposed to have best knowledge of the circumstances of the inhabitants. When the stent-roll is made up, it is ordered to lie for a week

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or so at the treasurer's office for the inspection of the inhabitants, by whom an appeal may be taken, if they deem themselves aggrieved; after which, another meeting is held by the stent-masters, who dispose of the appeals, and the stent-roll is then held concluded, and given out as the rule of collection.

A return of the stent imposed during the ten last years has been furnished. It varies from year to year. During the two last years it amounted to about £94 each year.

The number of stent-masters is indefinite, and varies at the pleasure of the council.

The different duties and customs have always been let by public roup. The stent has occasionally been rouped in the like manner, but more generally it is levied by a collector named by the magistrates.

The whole taxes are merged in the common good of the burgh, and applied accordingly.

The cess, or land-tax, exigible from the burgh, amounts to £7 16*s.*, and is paid annually out of the common good. No separate assessment under that name is levied from the inhabitants.

There is no exemption enjoyed by any class of the inhabitants from any of the burgh taxes, except that a burgess is charged, according to a lower rate, customs, &c., than an unfreeman.

The territory over which the power to impose and levy ladle-dues, tronage, causeway, and petty customs extends, is the *proper royalty* of the burgh, as described in the charter. The anchorage, quayage, and shore dues are levied over the whole precincts of the harbour, which includes the entire loch of Campbeltown, within Macninian's point on either side.

JURISDICTION.

The bounds over which the Jurisdiction of the magistrates extends are those of the proper royalty.

The jurisdiction is exercised by the magistrates, but they are generally assisted by the town clerk, as their assessor.

A civil court is held every Wednesday, and a criminal court when occasion requires.

In criminal matters, the magistrates are not in the practice of trying other than the smaller delinquencies and petty police offences. Where more than a punishment of ten days' imprisonment is likely to be required, they generally remit the case to the sheriff.

The number of civil and criminal causes decided by the magistrates in 1828 and 1832, and the intervening years, has been stated as follows:

Year.	Civil.	Criminal.
1828	73	9
1829	36	8
1830	21	4
1831	18	12
1832	16	9
	164	42

Of the 164 civil causes, the half were disposed of by decreets in absence. Only 60 were defended. Five of the defended actions were for sums above £25, and 41 for sums below that amount. In 10 only was a record closed.

On the last day of July 1833, there were only 14 cases in dependence before the burgh court.

The magistrates have no assessor but the town clerk. This officer is appointed by the magistrates and council. There is no instance in which he has been removed at the pleasure of the council. At each annual election, however, the minutes contain an entry that the town clerk is continued. He is paid by a salary of £5 11*s.* 1*d.* per annum, and certain fees on the business performed by him. The present incumbent states, that he does not think that the average annual amount beyond his salary will, including fees of certificates to publicans, and also fees of registration, &c., under the Reform Act, exceed £25.

PATRONAGE.

The burgh has no Patronage of any church, and pays no stipend to clergymen.

There are no bursaries or scholarships belonging to the burgh. The magistrates and council appoint the rector of the grammar school, which is also the parochial school. The heritors and minister of the parish have no voice in the matter, although the parish is partly landward. There is an assistant to the rector. The magistrates have right to elect him, but they have hitherto thought it better to leave the privilege and responsibility of this appointment with the rector.

There used formerly to be a schoolmistress, whom the magistrates also appointed, and to whom they paid a salary of £5. But the last incumbent having left the place, and respectable boarding establishments having been introduced, the magistrates have deemed it unnecessary to renew the appointment.

The salary paid to the rector is the maximum salary of a parochial schoolmaster, the burgh's share of which, as paid out of the common good, is £17 2*s.* 6¼*d.* The assistant teacher receives no salary from the town. It is believed he is paid by the rector.

The branches of education taught in the parochial school are,—the Latin, Greek, French, and English languages;—writing, arithmetic, land-surveying, mathematics, navigation, and geography.

The regulated fees per quarter, are:

	£.	*s.*	*d.*
English and Grammar	0	5	0
English, &c., Writing, and Arithmetic	0	6	0
Latin, English, &c., first year	0	7	6
Latin, Greek, Geography, Mathematics, and Book-keeping	0	10	6

French, English Composition, and any other branch that may be taught - - - - - - £0 12 0

Candlemas offerings are abolished.

The above fees are regulated by act of council 17th May 1831. Previous to that date, they were regulated by a similar act, 15th June 1812.

No regulations have been made for the government of the school, the magistrates on this head being desirous to leave as much as possible to the rector, under the general superintendence of the clergy.

The number of scholars attending the school is at present 60 under the rector's charge,—and under that of the assistant, superintended by him, 80,—in all 140. For the last two years the numbers have been much the same. Previous to that time the number was very small, the school being then unfortunately situated in regard to the rector, whom the magistrates induced afterwards to resign by the payment of a sum of money.

There are no funds mortified for the purpose of education or otherwise under the charge of the magistrates.

POLICE and GAOL.

The watching, cleaning, lighting, supply of water, paving, and other matters of Police, are regulated entirely by the magistrates and council, and the expenses are paid out of the common good.

There is no Act of Parliament touching these matters, or any other local interest of the burgh.

The Gaol is very deficient. The *criminal* part of it consists of three cells on the ground floor, all of them ill aired and ill lighted, and two of them excessively damp. In none of them can a prisoner be confined for any length of time without detriment to his health. There is no airing ground, and the only place in which the prisoners can have exercise is a small passage, between the external grating of the gaol, and the cells which communicate with the open street. There were no prisoners in confinement when the Commissioner made his visit.

The gaol for *debtors* is in the upper part of the town-house; the town-hall and court-room forming an intermediate floor between it and the criminal cells. It consists of but two apartments, in one of which the Commissioner found a male prisoner and two females. This part of the gaol is not quite so objectionable as the other; but it is too limited in extent, and it is also extremely ill ventilated. There is no airing ground, and no day-room for the prisoners.

The sheriff and magistrates in attendance spoke of the whole gaol as evidently insecure; and the former stated that he had had occasion to make no less than five or six reports against the state of it. He considered it as perhaps the worst gaol in Scotland, after the old gaol at Rothesay.

Assessment for the Poor.

Prior to February 1832, there was no Assessment for the parochial Poor. A small poor's fund had at one time been accumulated, partly from bequests and partly from savings; and that fund, with the collections at the church doors, and what was levied in the way of public begging, was the only source from which the poor derived their support. Latterly the above fund became exhausted, and cholera making its appearance, it was deemed inexpedient on that account, as well as on general principles, to permit the longer continuance of public begging. It thus became necessary to have an assessment, which was accordingly laid on by the authority of a joint meeting of the minister, kirk session, and heritors, and the magistrates and council. It was arranged between the landward heritors and the council, that—in the mean while, and until it should be finally decided by the proper tribunals, in the Lanark and Dunbar cases, how a parish partly landward and partly burgal should be dealt with—the burden should be equally borne by the landward and burgal districts. The assessment for one year, from February 1832, was £400. In February 1833, the assessment for the succeeding six months was fixed at £300; and in August last, for the remaining half of the year, at £250.

The burgh's half of these assessments has been allocated upon the inhabitants by an open committee of the magistrates and council. Every precaution has been used to impose the assessment rateably according to the means and substance of the parties. When the assessment was completed, the inhabitants were invited, as in the case of the stent, to inspect the same, and an opportunity was allowed them to appeal where they thought fit. It was not till after the appeals were disposed of that the roll was confirmed and dealt with as final.

DOCUMENTS.

The following Documents accompany this Report, viz:

1. Evidence taken by the Commissioner at Campbeltown.
2. Copy charter of erection of the burgh, dated 19th April 1700.
3. Letter Mr. Galbraith, superior and proprietor of Dallintober, in regard to the incorporation of these lands with the burgh, dated 6th December 1833.
4. Copy return by provost and town clerk of the number of burgesses, fees of admission, and population of burgh.
5. Return of the stent, weigh-house dues, and washing-house dues, during the years 1823 and 1832, and intervening years.
6. Printed table of ladle-dues, causey-custom, tronage and petty customs, 14th Sept. 1799.
7. Printed table of anchorage, quayage, and shore dues, 14th September 1799.
8. Excerpt from minutes of council in regard to these taxes since 1701.
9. Return of civil and criminal cases before the burgh court of Campbeltown.
10. State of burgh accounts, made up October 1833.

J. IVORY.

REPORT

ON

THE BURGH OF CRAIL,

(FIFESHIRE.)

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CRAIL.

History and Charters.

CRAIL is of great antiquity, and there is still to be found within its precincts the remains of the old castle in which David I. resided.

It appears to have been erected into a royal burgh at a very early period, by charters of the Kings of Scotland. These charters were confirmed by one of Robert I., in 1306, which was preserved, and produced in an action before the court of session in 1771; but which has unfortunately since been mislaid. This charter declared, *inter alia*, that the burgesses of Crail "should hold and possess the town of Crail in one free burgh, with all the liberties, advantages, and freedoms which she justly used or could occupy in the times of former Kings of Scotland, from the middle of the Water of Leven to the middle of the Brook Putiken." This charter was confirmed by another, granted by Robert II. in 1371, "with the harbours, both new and old, with free entrance and egress," and with all the liberties, privileges, and pertinents formerly enjoyed by the burgh. These charters were again confirmed by a subsequent charter of Queen Mary, dated 10th May, 1553, and which renews the previous grants of the burgh of Crail, within the limits mentioned in the first quoted charter. The rights of the burgh were further confirmed by sundry Acts of Parliament, in the reigns of King James VI. and Charles I. and II.

Anstruther Easter, Anstruther Wester, and Earlsferry were included within the freedom of Crail, and on that account paid custom to the burgh. This appears from the following entries in the accounts of the burgh of Crail, rendered in Exchequer in 1583:

"Customs of Anstruther be east the burn, within the freedom of said burgh, extending to £3 6*s.*"

"Customs of Anstruther be west the burn, within the freedom of said burgh, £3 6*s.*"

And in the same way the custom of Earlsferry is entered 20*s.*

Although it is quite clear that the privileges of the town of Crail at one time extended from the Water of Leven to the Brook of Putiken, it is probable that to this extent they have now gone into desuetude. About 1810 the magistrates and council feued to the late Earl of Kellie the out-teinds and customs, anchorages, and shore-dues of Fifeness, Cambo Sands, and Kingsbarns, for £5 of yearly rent, but afterwards it was reduced to £2, in consequence of liberty being reserved to the burgesses and inhabitants of Crail, Anstruther Easter, and Pittenweem, to frequent all the creeks and harbours of these shores without payment of any dues whatever to the Earl and his successors. An exchange or communication of privileges appears to have taken place between these towns; *i. e.* on payment of 11*s.* 1*d.* by Anstruther Easter, and 6*s.* 8*d.* by Pittenweem, the burgesses and inhabitants of these towns are free to trade and ship at Crail, and *vice versâ*. Within these few years the tacksman of the customs at Pittenweem brought an action before the bailies there, against Robert Gourlay, a burgess of Crail, but then resident at Pittenweem, for payment of certain town-dues, but the bailies of Pittenweem assoilzied Mr. Gourlay, in respect of his being a Crail burgess, and therefore free in Pittenweem. A similar contract seems to have been entered into with Elie at the same time; but the Elie *reddendo* does not appear to have been paid, at least in the memory of man.

Harbour.

There are two havens at Crail, called the Old and New Harbours. The first is neither very good nor very safe; but the other, a quarter of a mile to the eastward, called Roome Bay, might be converted into an excellent harbour at a certain expense, and made capable of containing 200 sail. It is said to have from 20 to 22 feet of water in ordinary tides, and 29 feet in spring tides. It is well sheltered from all winds except the south, and may be entered with the wind at any point at 1¼ hour's flood, by vessels drawing ten feet of water. The improvement of this harbour would be an essential benefit to the trade in the Forth, and the whole eastern coast of England and Scotland; as, from its central situation, it would be a place of safety in all storms from the north and east; and in strong westerly winds vessels would find shelter here, to prevent their being blown out of the Firth.

Crail was the great rendezvous of the herring fishery at the time when the Dutch learned here the mode of curing them, which they have since turned to so much advantage at home; but the fishery having declined on this part of the coast, the town has suffered along with it.

Being placed near the very point of the promontory of the *East Neuk*, or remotest part of Fifeshire, and separated on the one side by the Firth of Forth, and on the other by the Firth of Tay, from a direct communication by land with the south and north, its inland trade must naturally be limited. But it stands in a very fertile country; the lands here let during the war at £10 an acre; and £6, £7, and £8 are still given per acre for extensive tracts of land. The population, comprehending all the inhabitants within the parliamentary boundaries, by the census of 1831, amounted to 1,311, which was a decrease of 87 from the census of 1821.

Property.

The chief magistrate has been connected with the affairs of the town for the last thirty

CRAIL.

years, and he considers that for some time past it has been in a thriving state. The Property of the burgh in lands was formerly much more extensive than it is now.

ALIENATIONS. The Commissioners have not been able to obtain any account of the early alienations. Those of a late date are very small in point of extent, and only one of them seems worthy of notice. In 1809 two acres of ground were feued to Mr. Walter Moir, for £2 sterling of yearly feu duty, he becoming bound to make a road and build a bridge, which, however, has never been done; and it is considered an object of some consequence to the town that Mr. Moir should fulfil his contract. The other transactions, being in general simply for an annual feu duty, but sometimes for a price besides, appear to have been usually made by public roup, in terms of the Act of Parliament, and to have been entered into for the benefit of the burgh.

The property of the burgh at present consists of the mill lands, extending to eight acres, and a piece of muir ground, about two acres, between the lands of Airdrie and Kippo; Greendam; East and West Quarry-braes; Lower-dam; East and West Knaps; Mill Rood, and back Kirkstyle; lime quarry in Crail's Muir; superiority of houses in Crail's Wynd, St. Andrew's, and of the lands of Crail's Muir, with the feu duties, &c., payable by the vassals; the town-house and vacant ground, and vennels, within burgh; the shambles, new schoolhouse, and dwelling-house, and steading of mill lands; five shares of the stock of the Edinburgh and Glasgow Union Canal Company; and the harbour, with customs, anchorages, and shore-dues.

10th October 1833. The amount of debt due to the burgh is £68 15*s.* 5½*d.* besides £100 10*s.* 9*d.* in the hands of the treasurer.

REVENUE. The Annual Revenue varies; but for the last year it was as under:

	£.	s.	d.
Rents, (including £26 for customs, anchorage, and shore-dues,)	120	5	4
Feu duties	60	14	4
Casual revenue	15	13	0
Burrow maills, (collected once in three years—proportion for the year,)	1	4	2½
	£197	16	10½

EXPENDITURE. The Annual Expenditure also varies; but for the same year it was as follows:

ORDINARY.				
Salaries and public burdens	32	2	2½	
Interest of debt	23	10	0	
Entertainment King's birth-day	3	2	2½	
				58 14 5
CASUAL.				
Repairs, &c.	124	4	2	
Charities	3	0	0	
Miscellaneous disbursements	13	17	10½	
				141 2 0½
				£199 16 5½

The treasurer, on being examined as to the charge of £124 in the casual expenditure, under the head of repairs, declared, that of this sum £40 had been expended on the new pier, and about £60 on the improvement of the streets and common sewers, and £10 in painting the manse, being one-third of the expense of the same, the other two-thirds being borne by the country heritors. The improvement of the streets may occasion a further expense of £40 or £50, according to the plan proposed; but it is obviously one of very great benefit to the town; and it appears a beneficial arrangement which the magistrates have made with the county in regard to these streets, similar to that which exists with the heritors in regard to their church and manse, and school and school-house, viz., that one-third of the expense of repairing and improving the streets and sewers is borne by the burgh, and the other two-thirds by the county.

The treasurer gave it decidedly as his opinion that the ordinary revenue of the town, if properly managed, was sufficient for the ordinary and necessary expenditure. But he did not consider that the inspection of the public accounts was sufficiently opened up by the regulations of the Burgh Reform Act, inasmuch as the statement of accounts is directed to be kept by the town-clerk or treasurer, for the inspection of the registered electors only, and not for the inspection of the burgesses and public in general. It is no doubt enacted, that a full and distinct abstract of the said accounts, with a balance-sheet, shall be printed and published by the magistrates; but this would not afford an opportunity to any one, however great his interest in the town may be, if he is not a registered elector, of getting an explanation of any general charge which may be made in that abstract; take, for example, the charge of £124 made in the present year's accounts for repairs, under the head of casual expenditure, of which the Commissioners found it necessary to ask an explanation.

CRAIL.

DEBT.

The Debts due by the town are on personal security, and are as follow:

	£.	s.	d.
To the sailors' box, Crail, per bond for 1000 merks, dated 1757	55	11	1
To the kirk session of Crail, being sum mortified in the hands of the magistrates for education of poor, under the management of kirk session	20	0	0
To the kirk session of Crail, bond dated 1815	50	0	0
To Mrs. Matthew, per bill	500	0	0
	£625	11	1

Besides some accounts for the streets under repair, and current accounts to agents not yet rendered.

The bill for £500 is due for improvements on the harbour executed about six years ago. This appears to have been an unavoidable outlay.

TAXATION.

The magistrates of Crail levy the cess or land tax. It is imposed upon the inhabitants of the burgh by stent-masters, and the rate is generally 1*d.* per £1 sterling of valued rent. The amount levied within the last 10 years, and its application, is as under:

	Amount levied.	Expense of Assessment.	Cess paid.	Balance in Treasurer's hands
	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1823	None	None	3 18 0	None
1824	None	None	3 18 0	None
1825	8 9 2½	2 7 6	3 18 0	2 3 8½
1826	8 15 9	3 6 1	3 18 0	1 11 8
1827	None	None	3 18 0	None
1828	10 1 9½	2 7 6	3 18 0	3 16 3½
1829	None	None	3 18 0	None
1830	10 1 10½	3 0 10	3 18 0	3 3 0½
1831 } 1832 }	16 15 9½	2 0 0	7 16 0	6 19 9½
Total in 10 years.	54 4 5	13 1 11	39 0 0	

Occasional assessments have been made for weights and measures. None of the burgesses or inhabitants are exempted from any of these taxes.

The tacksman of the shore dues is authorized by a printed table, called the A. B. C. of the customs, anchorages, and shore dues of Crail, to levy certain small rates upon a long list of articles. The anchorages and shore dues have been altered from time to time within the last twenty years, but the table of customs has always been the same.

JURISDICTION.

The Jurisdiction of the burgh of Crail is exercised by the magistrates directly over the whole of the royalty The only court held within it is the bailie court, but there is little or no business brought before it. Both civil causes and petty offences are tried there; small sums are occasionally sued for; and the offences brought under the cognizance of the magistrates are assault, theft, and breaches of the peace. The number of each class brought into court since 1820 are:

	Assault.	Theft.	Breach of Peace.
1823	0	1	0
1824	0	1	1
1825	0	1	0
1827	1	1	0
1828	0	0	1
1830	1	0	0
1831	0	0	1
In 13 years	2	4	3

The records of the burgh exist in good preservation as far back as 1566, and the same series is continued with some blanks to 1591.

The town clerk is assessor *ex officio*, and his appointment is during the pleasure of the magistrates and council, but no emolument is attached to the duty, it being understood to be part of his business as town clerk. There is very little difference between the parliamentary boundary and the boundary of the royalty in this burgh. There is only one shop and one farm-house between them.

PATRONAGE.

The civil offices under the Patronage of the magistrates and council are, the treasurer, the town clerk, the procurator fiscal, and the town officer.

No price or consideration is in use to be paid for any of the offices under the patronage of the magistrates and council, and none of them are performed by deputy. The treasurer alone finds security for his intromissions. He receives £8 of salary, the town clerk £7, the first town officer £2, and the second £1 15*s.*; all of which are paid by the treasurer out of the ordinary revenue of the burgh. No fees are paid to any of the office bearers, except those for lodging processes with or borrowing them from the town clerk; but these are very trifling, on account of the small quantity of business done in the town.

CRAIL.

The burgh claims the patronage of Crail Church, but has not had the exercise of the right for a long period of years: the right has lately been exercised by the family of Crawford. The minister's stipend is from £300 to £500 a-year, according to the fiars prices of grain. It is payable by the heritors of the parish.

The burgh has no patronage of professorships or bursaries.

There are three schools in the parish, more or less under the patronage of the burgh.

First.—The united burgh and parochial school, which is conducted by a rector, who is the parochial schoolmaster under the Schoolmasters' Act, there being a private agreement between the burgh and landward heritors, that the power of electing should be exercised alternately by these two bodies, the minister being associated with each as a joint elector. An usher is only required where the number of scholars amounts to 90, and he is, in fact, a burgh teacher elected by the magistrates and council, for a limited term, on the recommendation of the rector, and receives from the burgh funds, along with a portion of the fees, the salary formerly paid to the burgh schoolmaster, on producing a certificate from the rector of his diligence and attention. This salary is £12, and in case there is no usher, that sum is at the disposal of the heritors, with the magistrates and council and minister, for the purposes of education within the parish. The rector has the maximum salary, and is paid by the heritors.

Second.—The burgh school, the master of which holds office from year to year at the pleasure of the magistrates and council, and has a school-room at a nominal rent payable to them; no salary or other emolument is attached to his appointment.

Third.—A female school, to which a salary of £4 is attached, payable out of the funds of the burgh.

The regulated fees in the united and burgh schools under the authority of the patrons are, reading, 2*s.* 6*d.*; reading and writing, 3*s.*; reading, writing, and arithmetic, 3*s.* 6*d.*; Latin, French, Greek, &c., 5*s.*; all per quarter, and paid in advance. There has been no alteration in the fees for the last 10 years. The average number of scholars within that time must have exceeded 300, but the precise amount cannot be ascertained. Besides the branches of education above noticed, English grammar, mathematics, navigation, book-keeping, land-measuring, Italian, geography, and history, form the higher branches of a course of education in this school. In the female school, 2*s.* a quarter is the charge for reading, writing, sewing, and knitting.

There are no mortified sums exclusively under the management of the town council for purposes of education. A part of the vacant stipend of Crail, to the extent of £20, was mortified by the patron in the hands of the magistrates for the education of poor children, but that mortification is under the management of the kirk session. Robert Ramsay, tailor, a native of Crail, in 1764 left £500, 3 per cent. Consols, to his wife in life-rent, and to the magistrates and town council, and minister of Crail in fee, for behoof of the poor of the parish; but the stock was thrown into Chancery in consequence of a refusal of the executors to transfer it. The Chancellor gave his award, that the interest of this sum should be paid over annually to the magistrates and minister, to be divided by them among poor families not receiving parochial relief; not more than £5 to be given to one family. £15 are accordingly received every year from the clerk of Chancery after the Chrismas dividends are paid, and soon after it is divided by the magistrates, council, and minister, among the poor of the parish, in small sums of from 2*s.* 6*d.* to 5*s.* or 6*s.*, and the distribution is entered in the minutes of council.

EXCLUSIVE PRIVILEGES.

Burgesses enjoy the Exclusive Privilege of carrying on trade within the burgh. The fees of entry as a burgess are, for a stranger, £10; burgesses' sons and sons-in-law, 15*s.*; and burgesses' eldest sons, 10*s.*

There are six corporations or crafts enjoying the exclusive privilege of exercising their crafts within the burgh; the seventh, being the weavers, have no exclusive privilege. The number in each corporation and the fees of entry (besides paying on admission 2*s.* 5½*d.* to the common box of the trades) are as under:

	Present Number.	Fees for Freemen's Sons.	Fees for Unfreemen.	Fees for Apprentices within Burgh.
		£. s. d.	£. s. d.	£. s. d.
Blacksmiths	4	2 19 0	5 18 0	
Wrights	11	3 19 0	6 2 2	
Weavers	15	1 5 10	3 14 11	3 4 7
Tailors	5	1 3 2	5 6 0	2 10 0
Shoemakers	10	1 10 0	3 0 0	
Coopers	3	1 15 0	4 15 0	2 15 0
Bakers	5	1 9 10	5 1 8	3 0 0

The exclusive privilege of the incorporated craftsmen is grounded on seals of cause or charters from the magistrates only, dated about 150 years back.

Three of the deacons in this town, speaking for themselves, and as representing the sentiments of their respective bodies, the blacksmiths, tailors, and bakers, were for upholding their exclusive privileges. The deacons of the wrights and weavers were, personally, of opinion that their value was not of great importance, but stated that there were many persons in the trades who thought them of vast importance, and that the general feeling of the corporations was, that they would like to keep them up. The only arguments urged in favour of upholding these privileges were, that if the trades were thrown open, there would be too many rivals in the same craft in a small place, and that it was hard upon the present members of the corporations, who had paid large sums on entry, to be deprived of their exclusive privilege, and

that others should be allowed to work without paying likewise. The deacon of the wrights thought the privilege objectionable. "He considers the right assumed by the corporation, of increasing the rate of entry-money at pleasure, to be a very great grievance. He entered four years ago; and, as part of the dues of entry as a freeman's son, was made to pay £2 for box-money; a short time before, the entry-money of a freeman's son was only 8*s.* 4*d.* The whole of the difference was started at one time, and the higher rate continues at present." The deacon of the tailors gave as a reason for upholding the privileges, "that they were the means of enriching the corporation," and added, "that the property of the corporation consists at present of £8 lent out on interest." The deacon of the shoemakers and the deacon of the coopers took a wider view of the question. Neither of them was disposed to consider the exclusive privilege of any importance. The deacon of the shoemakers declared "he had never heard his trade generally express any opinion upon the subject; and it certainly had never been discussed in the corporation since he belonged to it, which is now 20 years." The deacon of the coopers stated that "in his opinion corporations would be done away with; and he was not against it. He has been a member of his corporation for fifty years. He does not despise the corporation, but he is of liberal sentiments, and against shutting out any man from the opportunity of gaining a livelihood wherever he can; and he has never seen any benefit arise from the exclusive privilege at all."

Litigations in support of the exclusive privileges do not appear to have been very frequent in this town. The blacksmiths have had none, their privileges never having been invaded. The tailors, it is believed, have had none likewise: there is one unfreeman, however, now working within the royalty, and the clerk of the corporation made an application to the magistrates on the subject; but it appears not to have been made in the proper form, and no redress has as yet been obtained for the encroachment. The bakers have instituted several prosecutions in defence of their privileges; and some years ago were involved in an expensive action before the court of session, in which, however, the corporation were ultimately successful. Before this the corporation was comparatively rich; but that litigation swallowed up all their funds, and something more; and since then, as a corporation, they have been in very moderate circumstances.

Most of these trades were represented as being in a stationary state; and some of them were even acknowledged to be declining. None of them are possessed of considerable funds or property. The property of the wrights consists of £3 in cash, but they have no debt. The weavers' funds at present amount to 40*s.* or 50*s.* The tailors, being the richest craft, have £8. The shoemakers have £1 0*s.* 10*d.* The coopers have no funds, and no debt; and the same is understood as to the bakers.

Poor and decayed members and widows are not generally relieved by their respective corporations, but from the general fund of the seven trades, The tailors have sometimes given assistance to poor persons of the trade from their funds: and they take to themselves a refreshment or dinner from the fund "at a time." The corporation of shoemakers, too, take an occasional refreshment from the fund, "perhaps once a-year, or once in the two years, as circumstances will admit;" and this is believed to be the legitimate use of the funds in all trades who have any. The coopers and the bakers, being devoid of funds, tax their own pockets for any occasional expenses they are put to in their corporate capacity.

Mr. Taylor, the convener of the trades, was examined as to the funds belonging in common to the seven trades, and distinct from the funds of the several corporations. He stated, that the trades, in a united capacity, had always exercised the privilege of letting out *Mortcloths*, from which an income was derived, though of trifling amount. From this fund, once a-year, a division is made, and assistance is given in small sums to decayed members, and widows of decayed members of the trades. Mr. Cowan, the present clerk to the fund of the common box, states the amount to be £49 lent out to interest, and besides that, there is the amount of what the Mortcloths bring in in the year. The interest of this capital sum, and the annual return of the Mortcloths, constitute the whole fund for division; and when the box is opened, the deacons attend from each of the trades, and the trades themselves are all warned, to see that the distribution is fairly made.

The corporations have occasionally granted licences to unfreemen, upon their satisfying their trade. There is only one tradesman, a blacksmith, beyond the royalty line, and within the parliamentary boundary. No individual burgess, or member of any corporation, derives any direct advantage from the common good of the burgh.

ELECTION OF MAGISTRATES AND COUNCIL.

The convener of the trades is chosen by the seven trades, whose deacons, as well as the convener, formed part of the council prior to the date of the Act 3rd and 4th William IV. A petition from the incorporated trades, signed by the convener and the seven deacons, was presented to the Commission, complaining that their privilege had been invaded by the Burgh Reform Act, and praying that the convener should be restored to his seat in the council, and the seven deacons to their right of voting for the bailies and treasurer.

No change has taken place in the sett of the burgh since it was reported in 1819.

The number of the council is 21, now elected in terms of the 3rd and 4th William IV.

The number of persons resident within the proper bounds of the burgh, whose rents in property or tenantry amount to £10 per annum and upwards, are,

Burgesses - - - - - - - - -	38
Not burgesses - - - - - - - - -	27
	65

CRAIL.

The number of such persons whose rents in property or tenantry amount to £5 per annum, and upwards, are,

Burgesses - - - - - - - - -	24
Not burgesses - - - - - - - -	36
	60

There are no persons resident beyond the proper bounds of the burgh, but within the parliamentary boundary, whose rent in property or tenantry amount to £5.

The town treasurer, and the convener of the trades, stated it to be the general opinion of the burgh, that it would be a great advantage if the elective franchise were brought down to £5. The deacon of the hammermen declared, that "with all his heart he wished it reduced to £5." The deacon of the weavers said, "the body he represented would take it as a boon, if the elective franchise in such small places as Crail was reduced to £5." The deacon of the wrights said, "it would be the grandest thing that possibly could be for a small burgh of this kind, if the elective franchise was £5, instead of £10." And the deacon of the tailors, in which the deacon of the coopers concurred, declared, "that in this small, poor burgh, though a very industrious one, the present elective franchise was greatly too high, and ought to be reduced to £5, *or even less.*"

An opinion was very generally expressed, that the number of councillors should be reduced at least one-half. That the present number of councillors is much too great was practically illustrated at the first election under the new Act. The total number of registered voters did not exceed 30, and the council consists of 21. On the 5th October, the whole number was elected; but afterwards only 13 qualified. A new election was intimated of the eight vacant places, and these were filled up on the 11th, but six of them did not accept, some of them declining to incur the expense of the burgess entry-dues. On the third day of election six were chosen, some of whom in the same way did not accept, and it was only at the eighth election meeting that the necessary number was completed.

POLICE.

The Police of the town is not regulated by any special statute. The town officers and one constable do all the duty required within the burgh. The constable is appointed by the justices of the peace of the county, and is paid 8*s.* a-week for his trouble by subscription.

On the whole, this burgh seems day by day to be losing its urban character; its prison is untenanted, and crime is almost unknown. Any trade which ever existed has entirely disappeared; and even its streets and roads have been amalgamated in a great measure with the county management.

DOCUMENTS.

The following Documents accompany this Report:

1. Abstract accounts of the burgh of Crail for the year ending 1833.
2. Answers for the burgh of Crail to heads of inquiry issued by the Commissioners 1833.
3. Table of customs, &c., of the burgh of Crail.
4. Petition for the incorporated trades of Crail 1833.
5. Letter from Mr. Webster about the population of Crail, Nov. 1833.
6. Examinations taken at Crail, 31st Oct. 1833.

ROBERT GRAHAM.

REPORT

ON

CROMARTY,

(CROMARTYSHIRE.)

CROMARTY.

CROMARTY.

THE Town of Cromarty, formerly a royal burgh, with extensive property, now derives its chief consequence from its safe and magnificent roadstead. Its manufacture and trade are very trifling, and the herring fishing, which for some time formed a considerable employment to its inhabitants, has recently much declined. The Commissioners have not had access to any charters or original documents connected with the constitution or early history of this town.

It is not known at what period Cromarty obtained the privileges of a royal burgh. In 1670 the town council alienated their whole lands to Sir John Urquhart, of Cromarty, for the price of 5,000 merks Scots, and a feu-duty of 20 merks annually. Having thus disposed of their property, the provost, bailies, and council of the burgh, in 1672, petitioned Parliament, setting forth, that "there had been no trade of a long time bye-gone, nor at present, within the burgh; and that by many burdens and impositions imposed upon the said place, and incident to burghs in general, the said burgh is not only become depauperat, but also dispeopled," and supplicating to be permitted to demitt their freedom and privileges of a royal burgh; and Parliament having accepted of the demission, "ordained the name of that burgh of Cromarty to be expunged out of the rolls of Parliament," "and that hereafter it be no more reckoned or accounted a burgh royal."

Act a Parl. vol. 8, p. 68.

Since that period Cromarty has been considered as a burgh of barony, held under the proprietors of the estate of Cromarty, who formerly appointed a baron bailie for superintending the affairs of the town. For several years, however, no baron bailie has been appointed, and the only magistrates are two or three justices of peace, who happen to reside in the town.

Cromarty has no funds, and the Commissioners could find no documents or evidence of the management of its affairs since it ceased to be a royal burgh.

The harbour, which might be of some consequence in conjunction with its excellent roadstead, is said to have been built partly at the expense of the Crown, and partly by the proprietor of the estate of Cromarty. Small harbour-dues, which were formerly levied by the baron bailie, have been discontinued, and none are now exacted.

There are about 60 houses within the parliamentary boundaries of the town, affording qualifications to vote for a Member of Parliament for the district of burghs, to which it was joined by the Parliamentary Reform Act; and about 115 persons having, either as landlord or tenant, houses of the value of £5 per annum, or upwards.

The town has now received a constitution in virtue of the General Burgh Reform Act, and has elected magistrates, who complain that they are rendered almost useless from the want of the necessary funds for carrying on the common business of the burgh. They state that the General Voluntary Police Act, even if it shall be adopted, does not authorise the raising of funds for other purposes than those stated in the Act, which do not include the common expenses attendant on burgh courts—payment of town's officers, alimenting of prisoners, &c.

DOCUMENTS.

The following Documents accompany this Report:

1. Declaration of Robert Mitchell, Town Clerk, 28th September 1833.
2. Letter H. Ramage to the Commissioners, 30th September 1833.
3. Letter Robert Mitchell, Town Clerk, to the Secretary to the Commission, 20th February 1834.

ROBERT HUNTER.
C. INNES.

REPORT

ON

THE BURGH OF CULLEN.

(BANFFSHIRE.)

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CULLEN.

(The references on the margin are to the numbers of the inventory of documents appended.)

GENERAL DESCRIPTION.

THE royal burgh of Cullen is situate in Banffshire, consisting of little more than a single street, and containing within the boundaries of the royalty (as stated hereafter) about 1000 inhabitants. It has no manufactures, and, although there is a harbour (the property of the Earl of Seafield), it has little trade.

The town is so unimportant, that some years ago the family of Seafield removed it from the situation which it then occupied (being too near their residence), to its present site.

CHARTERS.

This burgh is, however, of considerable antiquity, as is proved by a Charter of James I., dated 6th March, 1455, ratifying a charter of Robert I., by which were granted to the burgh the usual liberties, privileges, and advantages.

ARTICLE I.

PROPERTY. Nos. 1, 2, 3.

The Property of the burgh was, in ancient times, considerable, but it was alienated to the family of Seafield. During the last 40 years there have been no alienations.

The property at present consists of houses of very small value, and of feu duties, which, valued at 20 years' purchase, would be worth nearly £411 3*s.* 4*d.*, and of two sums of money, viz.: £75 10*s.* and £250. The former of these sums is lent on a bond to the Earl of Findlater and Seafield, dated 13th of October, 1749; and the second is lent on a bill, dated 10th November, 1827, to Colonel Grant, as curator of the present Earl of Seafield.

REVENUE. No. 1.

The Revenue of the burgh is as follows:

	£.	*s.*	*d.*
Rents		11	8
Feu-duties	20	10	$3\frac{10}{12}$
Cess on lands	6	5	3
Customs and market-dues	11	0	0
Burgh stent, and cess	21	12	6
Interest of money lent	13	0	$4\frac{9}{12}$
	£73	0	$1\frac{7}{12}$

EXPENDITURE. Nos. 1, 2.

The annual Expenditure of the burgh is as follows:

	£.	*s.*	*d.*
Salaries	12	3	$5\frac{6}{12}$
Stipends and school salaries	13	1	8
Land tax	3	18	0
Burgh mails	2	10	$1\frac{8}{12}$
Rent	8	0	0
Feu-duty	0	5	$6\frac{8}{12}$
Repairs of property	2	5	1
	£42	3	11

No. 2, p. 2.

The sum of £8, here stated as rent, is paid for the shambles.

There are no Debts.

ADMINISTRATION.

The Administration of the burgh, in so far as relates to the management of its property, and the mode of keeping accounts, is of the ordinary nature. The treasurer (who resides at Cullen House, the seat of the family of Seafield) keeps, for his own use and security, a private cash-book, which contains the burgh transactions exclusively. It was inspected by the Commissioner, who found it to have been regularly and accurately kept.

Books and Accounts of Treasurer.

From it the treasurer makes up annually the accounts of the burgh. The treasurer exhibited the accounts as docqueted for the last 10 years, and also a record belonging to the burgh, in which he causes to be engrossed annually a copy of each year's account. This record (regular and accurate) commences in 1814, and terminates at Michaelmas 1832. There is no formal charge made up against the treasurer, according to which he is bound to collect and account. The accounts are made up annually and laid before the Michaelmas Head Court. A meeting of council is appointed to be held a fortnight or three weeks afterwards, and an open committee is also appointed to examine the accounts and vouchers, and to report. In the mean time, the accounts lie open for the inspection of the burgesses and others interested. The committee report to the second meeting of council, by which the accounts are approved of and docqueted. No objection ever appears to have been taken to the accounts. This part of the administration has, however, been in so far defective, that the accounts are always in the possession of the treasurer, and that there has

CULLEN.

been no compliance with the provisions of 3 Geo. IV. cap. 91. The reason assigned for the non-compliance was, that the examination already stated was found to be practically sufficient, and that the accounts are at all times accessible in the hands of the treasurer.

Books of Town Clerk.

The council minute-book and a chartulary are kept by the town clerk, both of which were found by the Commissioner to be regular and accurate.

ARTICLE II.

Taxation.

The power of the magistrates and council, in imposing local Taxes or Assessments, exists by charter and usage. The assessments which are permanent are land-tax, stent, burgh mail, and cess and land-cess.

The power of taxation is said to extend over the royalty, under which a district of some miles round the burgh is supposed to be comprehended; but the exercise of the power has been confined to the town of Cullen, and the lands immediately adjoining. The mode of imposing the taxes is by an act of council, and they are levied by a collector, who at present is the burgh treasurer. There are no stent-masters, and it is said that there have been none from time immemorial. The magistrates and council annually make up the stent-roll. The cess is divided into land and trade cess. The amount of the former never varies. The latter only was contained in the stent-roll exhibited to the Commissioner. The principle and rule according to which the trade-cess is imposed is upon an estimate of the amount of the trade of each dealer or artizan, which is calculated according to the extent of his sales, or the number of hands employed by him. It is not imposed according to any rate *per* pound, but on each individual according to his understood ability to pay. Not only merchants and tradesmen, but all the inhabitants of the burgh, are subjected to this tax, in levying which there is no greater difficulty than necessarily attaches to every tax.

There is levied about one-half more cess than is paid into the public revenue, and the surplus goes to the general funds of the burgh.

For the last ten years, the amount of land-cess has been £6 5*s*, 3*d*., and amount of land-tax and other impositions has been on an average about £20.

ARTICLE III.

Jurisdiction.

The Jurisdiction is said to extend over a district of about two miles from east to west, and the same distance from north to south. No burgh courts have been held for many years; but when they were held the magistrates themselves acted as judges, without the assistance of an assessor.

ARTICLE IV.

Patronage.

The offices under the Patronage of the burgh are,—*First*, dean of guild, salary £1 10*s*. *Second*, procurator fiscal, £1 13*s*. 4*d*.; *Third*, treasurer, £1 11*s*. $1\frac{8}{12}$*d*.; *Fourth*, town clerk, £2 5*s*.; and *Fifth*, town officer, £5 4*s*. The office-bearers are appointed by the magistrates and town council during pleasure, and are paid out of the common good, give no price or other consideration for their offices, and do not find security for the faithful discharge of them.

In the return made by the town clerk, mention is made of two mortifications said to be under the management of the magistrates and kirk session. In his declaration he stated they were called Lorrimer's and Latta's mortifications, and they are both bursaries. The first is for educating a student at the University of Aberdeen, and the second for educating a boy at the school of Cullen. But, in consequence of his having declared that the magistrates did not necessarily form a numerical majority of the managers, the Commissioner did not consider himself entitled to investigate the mode of administration.

ARTICLE V.

Exclusive Privilege.

There are no Corporations, and every one is entitled to buy, sell, and manufacture as he thinks proper. Burgess-ship is constituted simply by giving a "Burgess Act," and no fees are paid. The number of burgesses is about 24 or 25. In the sett of the burgh there is a distinction between trades councillors and merchant councillors, which was said to have arisen merely from the practice of choosing so many councillors from those who sold goods only, and who were called merchants, and so many from handicraftsmen, who were called tradesmen.

ARTICLE VI.

Sett of the Burgh.

There has been no change on the Sett of the Burgh since the year 1819. The council consists of three bailies, a dean of guild, a treasurer, and 21 councillors, in all 26.

No. 2, p. 3. 4.

The parliamentary boundaries are not nearly so extensive as the royalty. Within the parliamentary boundaries there are about 50 inhabitants, whose rents in property and tenantry amount to £10 and upwards, and there are about 30 more within the royalty, but beyond the parliamentary boundaries.

Within the parliamentary boundaries there are about 40 persons, whose rents in property and tenantry amount to between £5 and £10, and there are upwards of 80 such persons beyond the parliamentary boundaries, but within the royalty.

ARTICLE VII.

Police. No. 1.

There is nothing peculiar relative to the Police of this burgh, as the conduct of the inhabitants is peaceful and orderly; the only place of confinement is a Lock-up-house, erected

CULLEN.

about eleven years ago for the purpose of punishing petty delinquents by a short imprisonment, and to be used in case of need for the safe custody of prisoners on their way to the county gaol at Banff. This lock-up house consists of three apartments or cells of moderate dimensions, vaulted, paved, and light, and ventilated by a window secured by iron stauncheons. There is no fire-place in any of the apartments, nor is there any airing-ground attached to the building.

Prison.

The following Documents accompany this Report:

Documents.

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Declaration of George Grant, Town Clerk.
3. Declaration of William Anderson, Treasurer.
4. List of Civil Offices under the Patronage of the Magistrates.

ROBERT HUNTER.

REPORT

ON

THE BURGH OF CULROSS,

(PERTHSHIRE.)

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CULROSS.

CULROSS is situated on the north side of the Forth. It was erected into a royal burgh, by James VI., in 1588, and appears to have been originally possessed of considerable portions of the adjoining territory. The remains of an old pier are still visible, but the traffic of the harbour has disappeared.

PROPERTY. The burgh is not now possessed of any lands or Property in houses, mills, or fishings. They have an interest as heritors in the parish church, to the extent of one-third.

REVENUE AND EXPENDITURE. The annual Revenue of the burgh consists of feu duties, shore-dues, seat-rents from that part of the church apportioned to the burgh, and the rents of the flesh-market, of the sea-ware, and of the street-manure.

The town clerk stated the revenue of the year, from Michaelmas 1832, to be as follows:

	£.	s.	d.	£.	s.	d.
Feu duties	51	8	9			
Other branches of the common good, including a balance paid up by the late treasurer of £34 5s. 1½d.	51	12	1			
Poor's assessment	12	7	7½			
Town cess	3	3	0			
				118	11	5½

The Expenditure of that year was as follows:

Interest	3	12	6			
Salaries, stipend, schools	39	11	2½			
Land-tax (two years)	7	17	1			
Poor	14	17	6			
Streets and wells	12	2	0			
Dinners	1	10	0			
Business accounts	0	9	6			
Sundries, including cholera expenses and convention money	13	10	1			
				93	9	10½
Surplus of the year				£25	1	7

The revenue of the year was not entirely collected; and a small portion of the expenditure, under the head of salaries, was for more than the current year. The real state of the whole affairs of the town may be judged of from the following balance account, as at 28th September, 1832:

Charge.

In treasurer's hands	42	17	5
Year's feu duties collected	43	1	$1\frac{11}{12}$
Poor's assessment received this year	9	16	9
Town cess, ditto, ditto	3	3	0
Common good ditto	8	14	8
Of arrears of feu duties ditto	8	7	$7\frac{6}{12}$
Balance against the town	60	4	$9\frac{11}{12}$
	£176	5	$5\frac{4}{12}$

Discharge.

	£.	s.	d.
Disbursements of the year	89	19	$0\frac{4}{12}$
Bill due to the guildry	80	0	0
Interest on ditto	6	6	5
	86	6	5
	£176	5	$5\frac{4}{12}$

This balance against the town may be lessened to the extent of the sum recovered from the following list of arrears, viz.:

	£.	s.	d.
Of feu duties, 1832	3	14	3½
Poor's assessment, ditto	2	10	10½
Town cess, ditto	3	14	9½
Common good, ditto	7	9	0
	£17	8	11½

CULROSS.

FEUS.

Besides some arrears of small feu duties of older date.

Of the lands held in feu from the town, a feu duty of £24 13*s.* per annum is payable by Sir James Gibson Craig, for about 80 acres of the common muir, feued to him about 20 years ago, which is all planted. The lands held in feu by Lord Keith's representatives were feued out to the Dundonald family a great many years ago, and are upwards of 500 acres in extent, and covered with wood. The feu duty of these lands amounts to £11 13*s.* 2*d.*; and the family of Keith have also acquired some small feus, of which the feu duties are £1 9*s.* 3*d.* Sir Robert Preston's lands, for which he pays a feu duty of £1 7*s.* 10*d.*, were also part of the Dundonald estate, which had been conveyed to that family by the burgh. The lands for which Mr. Johnston pays a feu duty of £1 15*s.* 10*d.* are lands holding burgage within the royalty; as are also the lands of Mr. Dundas, of Blair, and Mr. Cuninghame.

It appears that the feu to Sir James Craig was sold by public roup, that the feu duty was originally higher than is now paid; but by the conditions of the sale, the purchaser had an option of buying up the feu duty in part, and that Sir James accordingly did so, at a price of about £300. It does not appear, from any book or document now in the hands of the official persons of the town, how the other feus were granted, or at what dates.

DEBT.

The bill for £80, due to the guildry, is the only debt of the burgh, except an unsettled account to Sir James Craig, for professional business in 1819 or 1820.

There is every appearance that the affairs of this burgh have been well managed for some time back. In the five years' accounts which were returned to parliament, the over-expenditure of the whole period does not amount to £10, although within that period there were some heavy charges of an extraordinary nature; as, for example, the sum paid for the new weights and measures in 1827, amounting to £95 4*s.* 11*d.* Considerable outlay, too, has been made within that time in internal improvements, such as the construction of wells and new metalling of roads.

TAXATION.

The magistrates levy no Taxes, except the market customs, which are paid by unfreemen frequenting the market, and the shore-dues specified in a table of rates on articles exported from, or imported into, the burgh, and vessels arriving in the harbour. The right to levy these duties seems to rest on usage alone, and are very moderate in their amount. Even when conjoined with the street manure, and other articles with which they are publicly let *in cumulo*, for the five years between 1827 and 1831 inclusive, they did not exceed an average annual produce of £1 15*s.*

The amount of the cess raised annually is £7 5*s.* 2½*d.* The amount paid to Government annually is £3 18*s.* The balance is partly exhausted by deficiencies in the collection, and partly by the allowance of a few shillings to the officer who makes it. Anything that remains beyond is paid into the common good.

JURISDICTION.

The magistrates have right to exercise the ordinary Jurisdiction of Magistrates of royal burghs, and it appears from the town books that they formerly entertained civil actions to a considerable extent. It is now some time, however, since they have held courts, because no causes have been entered. The magistrates exercised criminal jurisdiction formerly, and would now if there was occasion; but no criminal cases have occurred since the present town clerk came into office, which was in 1828.

PATRONAGE.

The magistrates and council elect their own clerk, and the town officers. They have a voice, as heritors of the parish, in the election of the schoolmaster, but in what manner that voice is to be exercised is not settled. Two of the magistrates are, *ex officio*, trustees in Mr. Geddes's institution, which is a school for the education, *gratis*, of 20 children, where books are also furnished to them, and from the funds of which there is likewise a small salary payable to a Sunday evening school. The funds of that institution are at present partly unavailable, owing to the failure of the person who had charge of them; but it is hoped they will come round again, as repayment of a considerable portion of them has been received. The two magistrates have, as trustees, a voice in the election of the master of that school, whose salary is the interest of £1,220, deducting £6 for the Sunday school, and of course it varies according to the market rate of interest. They have likewise a voice in the choice of those who are to be received into the school. The fees to those who are not on the foundation are 5*s.* for Latin; 4*s.* 6*d.* for reading, writing, and arithmetic; 4*s.* for writing and arithmetic alone; and 3*s.* for reading singly, all per quarter. The average number of children attending the school annually, for the last ten years, has been between 80 and 90.

There was also a sum of money left by Dr. Bell, of London, for the education of a few boys, and other purposes, which is under the management of the magistrates, the two parochial clergymen, the dean of guild, and the parochial schoolmaster. The fund is lent on heritable security, and now amounts to nearly £1,000. £15 is applied annually out of the interest of this sum in assisting two young men from the school at Culross to go to any university they please. The allowance is continued to the same individuals for four years.

EXCLUSIVE PRIVILEGES.

Burgesses only can be members of corporations and guild brethren. There are no fees on the entry of burgesses. The fees of entry to the guildry for the last 40 years have been 5*s.* for sons or sons-in-law of guild brethren, and 55*s.* for any other person. The burdens attached to both burgesses and guild brethren are payment of cess or land-tax within burgh, and bearing "scot and lot, and all burdens and impositions laid on for the good and commonweal of the burgh." There are no funds belonging to the burgesses. The guildry are possessed of about £200, the interest of which is annually distributed among decayed guild brethren and widows of guild brethren.

All the incorporated trades, except the weavers, enjoy the Exclusive Privilege of exercising their crafts within the royalty, and it is generally understood that though none of them

have now any charter, or seal of cause extant, their privileges were conferred by the magistrates, who have power to that effect by the charter of erection of the burgh.

The wrights, smiths, shoemakers, and tailors assert the exclusive right of manufacture and sale of articles of their respective trades; the fleshers that of killing and selling; and the bakers that of baking only within the burgh.

The fees exacted on the entry of persons with the incorporations are stated in the following table:

	Number of Members.	Fees by Sons of Freemen.	Apprenticeship.	Strangers.
		£. s. d.	£. s. d.	£. s. d.
Weavers	11	0 18 6	1 1 0	2 10 0
Wrights	6	0 13 6	0 13 6	3 0 0
Shoemakers	8	1 1 0	1 1 0	3 0 0
Bakers	4	0 0 0	0 0 0	2 5 0
Smiths	4	No Fixed Fees, but what the majority of the Incorporation may think fit to ask.		
Tailors	5			
Fleshers	3			

The bakers have funds to the amount of £22, lent on personal security; 6*s.* 8*d.* of the annual produce is paid to the second minister, and the balance is added to the stock.

The corporation of shoemakers is possessed of £125, lent out upon heritable and personal security. A small sum is paid by them to the second minister, as stipend. The rest of their income is expended annually upon the widows and decayed members of the corporation, except about £1 or 25*s.*, which is spent annually for a dinner at the elections.

The funds of the wrights amount to £26, lent on personal security. The interest of this sum goes, in the first place, to defray the expenses of the dinner at the Michaelmas election, and if there is any surplus it is added to the stock.

The other corporations do not appear to have any funds. Most of the incorporations are represented as not being prosperous, the members having declined within the last 30 years. In general they have had only from two to four intrants within the last 30 years, and about the same number of apprentices, except the bakers, who have had 12, and the tailors 13, within that period.

Their exclusive privileges are not considered as holding out any inducement to enter with the corporations; and little danger is to be anticipated from the abolition of these privileges under a reservation of the funds. Thus guarded, most of the corporations would not object to the abolition, provided that, by a legislative enactment, it was made applicable to all the Scotch burghs. The tailors, however, are understood to be of opinion that their privileges could not be abolished without endangering their craft. The deacon of the shoemakers, too, stated, "that it would be injurious to the members of his corporation to do away with their exclusive privileges;" he thinks "he himself would be a loser by allowing any body that chose, to work, without entering with the corporation." The deacon of the wrights, on the other hand, "was not aware that his corporation derived any benefit from exclusive privileges, and that, if they ever had such rights, the privileges were now thrown open. There are just five members of the corporation resident within burgh; the number of members have been on the decrease within the last ten years, and he considers the cause of this to be the number of strangers of the same craft who have settled within the bounds. Although he does not consider that the wrights can now make their exclusive privileges effectual, he believes they have as good a title to do so as the other trades of the town."

ELECTION OF MAGISTRATES AND COUNCIL.

The sett of Culross appears to have been framed by act of the convention of royal burghs, in 1658. The council consists of 19. The moderator of the council is said to have two votes; but it is not mentioned how he is appointed.

POPULATION.

The Population of the burgh, in 1831, is estimated at 700, being somewhat less than one-half of the population of the whole parish, which, by the last census, was 1,488. In 1811, the population of the burgh and parish was 1,611. About 20 £10 householders reside within the royalty.

POLICE.

There is no special provision for the maintenance of the Police; and none is necessary. The gaol is unfit for the reception of criminal prisoners. As a debtors' gaol it does not appear to be uncomfortable.

DOCUMENTS.

The following Documents accompany this Report:

1. Examinations relative to the Burgh of Culross, 16th October, 1833.
2. Return by the Incorporated Trades of Culross to Notes of Inquiry issued by the Commissioners, 31st October, 1833.

ROBERT GRAHAM.

REPORT

ON

THE BURGH OF CUPAR,

(FIFESHIRE.)

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CUPAR.

HISTORY.

The earliest charter of the burgh of Cupar of Fife is granted by David II., in 1363, conferring the privileges of trade upon the burgesses, in like manner as upon the inhabitants of burghs generally; these privileges were confirmed, and various grants of lands conferred upon them, by a charter granted by Robert II., dated Dunfermline, 28th June 1381; by a charter of James I., dated at Perth, 28th February 1428-9; by another of the same reign, dated 30th October 1436; by a charter of King James V., dated 13th March 1518; by an Act and warrant of James VI., dated at Holyrood House, 1573, and by a charter of feu-farm by King James VI., dated Edinburgh 4th June 1595.

PROPERTY.

The Property of the town consists of lands, feu duties, customs, and market-dues.

The property in land was at one time very extensive, stretching three miles to the westward, and extending perhaps to 1,000 acres. Compared with this its present extent is very limited. The lands seem to have been chiefly feued out about a century ago, at a time when they were in a state of nature and at very low feu duties, the highest is believed to be 1*s.* per acre, and without any purchase money.

Although the great part of the landed property seems to have been alienated more than a century ago, there have been very considerable alienations of the town's property within the last 40 years. No less than 42 cases of this kind are enumerated by the town clerk. From 1794 to 1813, there appears to have been twelve cases, all in the form of feus generally by public roup, and apparently for a fair consideration. From 1817, downwards, there appears to have been seventeen cases of sales of feu duties, four of which bear to have been either by public roup or at 20 years' purchase. The remaining cases consist of sales of lots of ground, houses, gardens, shops, cellars, &c., and almost all bearing to have been disposed of by public roup. Besides these, other small feu duties were sold to the vassals, but they have not yet received any direct conveyance to them.

	£.	*s.*	*d.*
The total sum received for alienations within the 40 years has been	3,433	0	10
But of these to the extent of - - - - - - - - were purchases made by the town within the same period.	815	0	0
Balance - - -	£2,618	0	10

Many of these sales seem to have been forced by the necessities of the town.

REVENUE.

The present Revenue of the burgh may be stated as follows:

	£.	*s.*	*d.*
Rent of land per rental, crop 1832, - - - - -	321	6	7½
Feu duties per ditto ditto - - - - -	120	7	4½
Crown feu duties payable to the town - - - - -	2	17	11½
Customs per rental, crop 1832 - - - - - -	54	0	0
Receipts for admission of burgesses - - - - -	21	0	0
Seat rents in church - - - - - - - - -	35	2	0
	£554	13	11½

EXPENDITURE.

The Expenditure for the year 1832 was as follows:

	£.	*s.*	*d.*	£.	*s.*	*d.*
Interest of money borrowed - - - - -	-	-		223	10	0
Annuities - - - - - - - -	-	-		32	13	0
Salaries of burgh officers - - - -	47	13	0			
of teachers - - - - - -	77	10	0			
Stipend - - - - - - - - -	34	19	6½			
				160	2	6½
Expenses connected with the gaol - - -	-			78	8	11½
Bursaries - - - - - - - -	20	0	0			
Gray's poor - - - - - - - -	24	19	0			
Charities - - - - - - - - -	3	0	0			
				47	19	0
Expense of officers' clothes, &c. - - - -	-			48	6	3
				£590	19	9
Expenses of repairing streets - - - -	50	6	6			
Assessment for manse - - - - -	65	0	11			
Public works - - - - - -	45	5	7	160	13	0
				£751	12	9

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There is not much extraordinary or casual expenditure in this account. The assessment for the manse is probably the only material item which is not likely to appear regularly in the accounts of future years, and there are some of the heads of expense, for example, the expenses of the gaol, which are rather under the calculated average expense. Upon the whole, therefore, the accounts of this year may be fairly enough taken as an estimate of the usual proportion between the revenue and expenditure of the burgh.

The income of 1832, as contrasted with the account made up of the fixed and estimated annual expenses, dated 15th October 1833, shows an annual deficiency of nearly £300. There can be no doubt that this state of affairs has resulted from the diminution of the income by the sale of the property of the burgh, though it is believed that these sales had become necessary at their respective dates, from the town's embarrassments, in consequence of great improvements having been carried into effect without the provision of special funds for those objects. The gentlemen connected with the town council, who have had the best opportunities of becoming acquainted with the affairs of the town, attribute their embarrassments chiefly to the expense of opening up the new street called St. Catherine-street, the expense of building the gaol, and other public buildings, and the law expenses connected with that measure. The money for these purposes was raised by granting annuities, some of them at so high a rate as 12 per cent.; and the difficulty of meeting these annuities forced the town into many sales, which, together with the fall of land rent, made a material diminution of the town's rental. The gaol was built at the joint expense of the county of Fife and the burgh of Cupar, and under authority of an Act of Parliament which declared it a county gaol. Consequently prisoners are sent to it from all parts of the county, and it costs the town from £90 to £100 a-year for their maintenance. On a recent occasion, the burgh had to pay £100 for carrying into effect the last sentence of the law upon a man from Dunfermline, convicted of murder, simply from his being sent to Cupar as the county gaol.

A good deal of money seems to have been thrown away injudiciously on this gaol, and its utility and accomodation have been made secondary objects to its external appearance. A serious expense was incurred too in obtaining the Act of Parliament for building it, as the measure met with great opposition. An expense of £1,000 seems to have been incurred since 1814 in paving the streets, which has all fallen upon the common good; and the great expense incurred in levelling and paving the streets before that time is said to have been the immediate cause of feuing out the mills. The feu duty obtained for these mills has subsequently been sold, and the town is divested of that part of the property without an apparent equivalent. The case of the mills was represented to the Commissioners as calling for a special inquiry; but though the original feuing and the subsequent sale of the feu duties may have been inexpedient, unless under the circumstance of the necessities of the town absolutely requiring it, in neither of these transactions did it appear to the Commissioners that there was anything fraudulent.

In addition to its other misfortunes, however, there appears to have been all along a want of attention and regularity in managing the revenue of the burgh, more especially in collecting its rents, and considerable sums appear to have been lost by allowing them to fall into arrear. It was stated by a member of the council that it might be proved, from a search of the minutes of council, that the persons falling into arrear often made interest with members of the council to obtain deductions of their rent, and sometimes in that way obtained even a total discharge of their arrears.

The local situation of the burgh, as the great thoroughfare between the two ferries of the Forth and Tay, exposes it to a great influx of vagrants, and the burgh, as other burghs, is at the expense of maintaining prisoners after trial, not only for the town, but for the county. This throws a very considerable expense upon the burgh funds. Before the Act of Parliament for building the present gaol, there was an old burgh gaol, in which the magistrates maintained the burgh prisoners, and the county prisoners were maintained out of the rogue-money after trial and sentence, as well as before. But this was discovered to be illegal, and the prisoners of the town and county after sentence are both maintained at the expense of the town, upon which all the expense of repairs also falls.

DEBT.

The present Debt of the burgh is:

	£.	s.	d.	£.	s.	d.
Heritably secured	4,022	10	0			
Money borrowed on personal security	2,944	2	1			
				6,966	12	1
Accounts unpaid				474	14	0
Value of the annuities at present £32 13s.				130	12	0
Value of the Bursaries per annum £30				600	0	0
				£8,171	18	1
The whole property of the town is valued at				13,528	8	2
Free value of property				£5,356	10	1

From the annual excess of expenditure over income, it is evident that the debt must quickly equal the value of the remaining property; and although strict attention to economy might delay that event, it does not appear that the necessary expenses of the burgh can be supported for any considerable time without having recourse to an assessment.

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TAXATION.

No local Tax is levied in Cupar except the petty customs. The cess, or burgh land-tax, is levied upon property and the profits of trade within the royalty of the burgh. It is allocated by stent-masters chosen from among the merchants of the burgh by the council, by whom the collector is also annually appointed. The stent-masters have no remuneration, except the expense of an entertainment at the first meeting in each year. The collector is allowed a commission of 15 per cent. in consideration of his great trouble in collecting the cess in trifling sums. The expense of printing, stationery, &c., connected with the cess, is also paid out of the assessment.

The following statement shows the sums levied from property and on trade, respectively, from 1823-4 to 1832-3 inclusive, with the expenses of collection, and the rate at which the property is assessed on the assumed rental. The rate of assessment on trade is according to the supposed circumstances of the trader.

Year.	Rate on Property.	Property.	Trade.	Total levied.	Expense.	Paid to Exchequer.
	d.	£ *s.* *d.*	£ *s.* *d.*	£ *s.* *d.*		£ *s.* *d.*
1823-4	2 per pound.	45 13 8	27 19 6	73 13 2	15 per Cent. on the Collection, with the Expense of an Entertainment to the Stent-Masters.	39 0 0
1824-5	2 per pound.	47 8 2	21 19 6	69 7 8		39 0 0
1825-6	2 per pound.	47 2 8	28 0 8	75 3 4		39 0 0
1826-7	2 per pound.	42 15 0	18 18 10	61 13 10		39 0 0
1827-8	1½ per pound.	39 13 0	13 12 8	53 5 8		39 0 0
1828-9	1¼ per pound.	29 19 11	13 15 3	43 15 2		39 0 0
1829-30	1¼ per pound.	30 16 8	15 11 5	46 8 1		39 0 0
1830-31	1¼ per pound.	31 4 8	15 13 1	46 17 9		39 0 0
1831-32	1½ per pound.	37 3 3	14 14 7	51 17 10		39 0 0
1832-33	1½ per pound.	36 8 9	16 2 9	52 11 6		39 0 0

The expense of the dinner to the stent-masters may be £4 or £5, and there is a small expenditure for stationery. The surplus, if any, remains in the collector's hands, and to lessen the rate of assessment in future years, as happened in some of the years in the table above. No surplus ever goes to the common funds of the burgh.

From this collection is exempted a small portion of territory within the royalty, but not held burgage, and not considered to be liable in "burgh mails or services of burgh." This property at one time belonged to the monastery of Blackfriars, near to the castle of Cupar, and on their extinction fell to the Crown. The right of superiority is now vested in the Sympathetic Society of Leith.

JURISDICTION.

The Jurisdiction of the magistrates is confined to the burgh and burgh acres. The royalty of Cupar is very narrow towards the north, being bounded on that side by the Ladyburn. Immediately to the north of this burn, and within the parliamentary boundary, there have arisen of late years several villages where there is no police establishment of any kind, and which are beyond the jurisdiction of the magistrates. These villages are called Braehead and New Town, (both on the lands of Pittencrieff,) and Burnside, Lebanon, and Bank Street. Even more directly within the precincts of the town, and in the principal street, called St. Catherine-street, there are houses which are not within the royalty, although completely surrounded by it. In the street called the Millgate, the west side of the street holds burgage and is within the royalty, and the east side is beyond it and holds of the Earl of Rothes. Great inconvenience is found to exist in consequence of the jurisdiction of the magistrates not extending over these portions of the town. The official persons and those connected with the burgh management were unanimously of opinion, that it would be highly expedient to extend the jurisdiction of the magistrates to the parliamentary boundaries on those sides where they go beyond the royalty, and to limit the royalty on other sides to the parliamentary boundaries. It is evident, however, that here, as in many other places, this change could not probably be carried into effect without some modification. The agent of one of the superiors of Lebanon stated to the Commissioners, "that it would be an advantage to that district of the town to be united in the same jurisdiction with Cupar, provided it was not made liable for the debts of the town, and not subjected to any burdens but those of police; and provided the rights of the superior were preserved, and the holding to remain as it is." One of the trustees upon the barony lands of Lebanon stated, "that though these lands were beyond the jurisdiction of the magistrates, he had found no want of police there, as the sheriff substitute and procurator fiscal resided in Cupar—that he does not think it necessary to extend the jurisdiction of the magistrates over the property with which he is connected; but if it is to be so extended, it would be necessary to guard the inhabitants from liability for the burgh debt and burgh taxes, as they already pay cess and rogue-money with the county."

Burgh courts are held on stated days for the dispatch of business, under the regulations of the Act of Sederunt in reference to the burgh courts; but as the sheriff courts, both ordinary and under the Small Debt Act, are held within the burgh, little business is brought before the burgh court. The cases disposed of before the magistrates have generally been petty assaults and other breaches of the peace, which are decided in a summary way. Cases of a graver nature are either reported to the crown council or are taken up by the sheriff of the county.

Great difficulty often occurs in getting the county functionaries to interfere in cases which occur within the territories of the burgh, and considerable expense is thrown in this way upon the revenues of the town; for when the magistrates take the precognitions and

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prepare cases for trial before the circuit court, they are refused to be reimbursed at the exchequer of the expenses thereby occasioned, even when convictions follow, on the ground that the officers of exchequer have no authority to audit or allow any accounts for such matters except those of the sheriffs.

There is no regular record kept of the criminal cases before the magistrates, but the following civil causes appear from the Act book of court to have depended in the burgh court from 1820 to 1833:

Years.	No. of Cases.	Years.	No. of Cases.
1820	30	1827	17
1821	21	1828	16
1822	27	1829	22
1823	19	1830	11
1824	12	1831	11
1825	26	1832	8
1826	29	1833	7

It does not appear how many of these were defended.

There is no assessor to the magistrates, but the town clerk is consulted by them as occasion requires. There are generally a number of writers on the bench as bailies, which has hitherto rendered the assistance of an assessor unnecessary.

PATRONAGE.

The civil offices under the Patronage of the magistrates and council are:

1. The town clerk.
2. The collector of cess and assessed taxes for the burgh.
3. The billet-master.
4. The precentor of the town church.
5. The gaoler and town officers.

Of late years, the treasurer's duty has been performed by a person named by the council as chamberlain, but this is not a permanent appointment. It is strongly recommended as a check to the accumulation of arrears, that a factor or chamberlain should be appointed, not connected with the town council, and who should be bound to account in the same way as any other factor.

The appointment to all these offices is exercised by the council. No price or consideration has been paid for them. None of them are held for life, except the town clerk's. The collector of cess is appointed yearly, and the other officers hold their situations during the pleasure of the council. Security is exacted from the collector of cess, the chamberlain or treasurer, and gaoler.

	£.	s.	d.
The town clerk receives a salary of - -	11	0	6
Treasurer or Chamberlain - - - -	21	0	0
Billet-master (formerly £10) - - - -	5	0	0
Precentor - - - - - - -	2	10	0
Gaoler (£5 of which paid by county) - -	20	0	0
Two officers, each £10 - - - - -	20	0	0
One officer - - - - - - -	2	2	0
Bell-ringer - - - - - - -	3	3	0

The gaoler and officers are clothed at the expense of the town, and have allowances for a house, &c.

Besides his salary, the town clerk has the fees arising from infeftments within burgh and court dues, which may be estimated at £100 per annum.

The collector of cess, &c., is paid by a commission or poundage on his collection.

The town has no right of church patronage. The presentation to the town and parish church, which is a collegiate charge, is in the Crown, and the stipend is paid from the teinds of the parish. Its only academical patronage is one bursary at St. Andrew's College, yielding four bolls of wheat, to which the appointment is made by the council.

Formerly there were two schools supported by the burgh and under the control of the town council, known by the names of "the Grammar School and the English School." About the year 1822, however, it was proposed to establish an academy in the town, and the town council, in compliance with the wishes of the inhabitants, gave up their patronage for this purpose. The patronage of the academy is vested in the magistrates, and in subscribers to the amount of £10, besides certain patrons *ex officio*; and the whole management and direction is centred in the general body of the patrons and their committee of directors. The school-rooms are provided and half of the schoolmasters' salaries are paid by the town; the other half of the salaries and all incidental expenses out of the general subscription fund. The school furniture and a chemical apparatus, purchased at considerable expense, belong to the subscribers.

The teachers have been appointed by the general body of management. They were originally five in number, but for the last five years the number has been reduced to three, viz.:

	£.	s.	d.
1. A classical and French teacher, with a salary of	50	0	0
2. A teacher of writing, arithmetic, geography, and mathematics, whose salary is - -	40	0	0
3. A teacher of English, English grammar, and composition, whose salary is - - -	20	0	0

The following are the quarterly fees which the teachers receive in addition to their salaries:

	£.	s.	d.
Latin	0	7	6
Latin and Greek	0	10	6
French	0	7	6
French, when Latin or Greek fee is paid	0	5	0
Writing	0	3	6
Writing and arithmetic	0	5	0
Mathematics	0	10	6
Geography, junior class	0	3	6
Geography, senior class	0	5	0
English	0	4	0
English grammar	0	2	6
English, including grammar and the principles of composition	0	6	0

The fees for English were formerly higher; but in consequence of a gift of £100 by the late Dr. Bell, of Madras, which is placed at the disposal of certain gentlemen, who agreed to give a gratuity to the English teacher in consideration of his fees being lowered by the academy managers, for the last two years they have been rated as they are above, and the teacher has received a compensation of £25 yearly, with five guineas a-year for prizes to his scholars.

The regulations made for the academy at its institution by the patrons and a committee of directors have been, from time to time, altered and improved according to circumstances. No matriculation book is kept; but, from the information of the masters, the number of scholars attending the academy varies from 150 to 200 annually.

No funds mortified for the purpose of education are under the control of the council alone.

The late Dr. Gray, of Paddington, in the county of Middlesex, left £500, the interest of which he directed to be applied in payment of a salary to a female teacher in Cupar, and the management is vested in the provost, clergymen, and schoolmaster of the parish for the time being. There is no parish schoolmaster in Cupar.

Dr. Bell also conveyed his estate of Egmore to trustees, consisting of the lord-lieutenant of the county, the lord justice clerk, the sheriff of the county, the provost, the dean of guild, and the two established clergymen of Cupar, for the purpose of founding an establishment for tuition there on the Madras system; but in consequence of the burden of several considerable annuities and necessary repairs upon the property, the trustees have as yet been unable to do more than to establish a temporary school for teaching the lower branches of education, at which 120 children are taught.

EXCLUSIVE PRIVILEGES.

It is necessary to be a *burgess* before entering either with the *guildry* or any of the *corporations* of Cupar.

To entitle any one to carry on merchandize, he must enter with the guildry; and if he intends to carry on any handicraft, trade, or manufacture, it is necessary that he should become a member of that particular trade.

The burgess fees are:

	£.	s.	d.
For a non-freeman	5	5	0
Freeman's son or son-in-law	1	1	0

The guild-brother fees are:

For a non-freeman	21	0	0
Guild-brother's son or son-in-law	4	4	0

These fees have been considerably raised within these 20 years.

The guildry have been in the habit of admitting a class of members, who, upon paying one-half of the full dues, were admitted to the mercantile, but not to the political privileges of the Incorporation. The children of those members derive no benefit in right of their fathers' entry. They have also been in the habit of taking a small annual payment from old women keeping retail shops, in place of forcing them to enter.

The whole funds of the guildry, at 3rd October 1833, amounted to £11 1*s.* 1½*d.*

No record of burgesses appears to have been kept till of late, and it is impossible to state their precise number; but from the accounts, 212 appear to have entered within the last 20 years. A roll of guild-brethren is made up at Michaelmas annually, and the number in 1832 was 168.

There are eight corporations of crafts in this town, viz.: hammermen, wrights, weavers, tailors, shoemakers, waulkers, bakers, and fleshers. The members of each craft enjoy the exclusive privilege of exercising their trade within the burgh. Their privileges are said all to rest on a crown charter from Queen Anne. The trades elect one of their own number as their deacon, who was formerly a member of the town council *ex officio*. The eight deacons elect one of their own number as their convener. The convener presides over the eight trades as an aggregate corporation different from, and unconnected with, the separate corporations of the trades, and there is a separate clerk, and funds kept distinct from those of the separate trades. The only property of the eight trades corporations is their mortcloths, which are let out for funerals; and more is charged for them to strangers than to members of the trades. The income from this source may average £5. The only other source of revenue to this body arises from a small fund paid into the convener's council on the entry of members into the different trades, which does not average above 8*s.* or 10*s.* a year.

Corporation of *Hammermen*.—This incorporation includes blacksmiths, tinsmiths, silversmiths, cutlers, saddlers, clock and watch makers. There are 33 members, and the entry monies are, to

	£.	s.	d.
A stranger	30	0	0
Freeman's son	1	1	0
Stranger marrying a freeman's daughter	3	3	0

By a vote of the trade during the present year, strangers have been admitted for £15.

The corporation have in property a feu duty of about £9 a year, and £60 or £70 in the bank. For the last 28 or 30 years, the corporation have been in connexion with a friendly society, and have made over to the society their whole funds and future entries for the benefit of sick members and widows; burdened, however, with the expense of defending their privileges. No member of the corporation is forced to enter the society, but of course he receives none of its benefits unless he does so. In this society they have been under the necessity of lowering the allowances fixed, from the apprehension of the funds becoming deficient; but, according to the opinion of the deacon, it thrives pretty well.

Corporation of *Wrights*.—This corporation consists of wrights, masons, and slaters. There are 40 members, and a freeman can only carry on his own particular trade. If he enters as a wright, he can only carry on the business of a wright; if a slater, only the business of a slater.

The fees of entry are:

	£.	s.	d.
For a wright	20	0	0
For a slater	8	0	0
A freeman's son	2	10	0
A freeman's son-in-law	5	0	0

There is no yearly payment made to the corporation.

The property which the trades had in the church lofts was lost to them 40 or 50 years ago, when the new church was built. The wrights, as a corporation, may now be considered as possessed of no property. By the constitution of a friendly society, instituted about 40 years ago, the corporation bound themselves to pay over to the society the fees of intrants, and in return they receive £2 a-year to pay their officers. All the members of the corporation are obliged to enter the society, and to contribute one quarter's payment; after that they may continue or not, as they please, benefiting of course according to the rules if they choose to continue, and ceasing to have any advantage from them if they withdraw. The deacon of the corporation considers the society not a thriving one; so much so, that after continuing in it for five or six years, he has discontinued being a member. He is afraid that most of the societies in the town are in the same state, and that their constitutions were framed, and their tables constructed, before sufficient experience had been gained of the true principles on which such establishments should be regulated.

Corporation of *Weavers*.—The number of members of this corporation at present is 65, and the fees of entry are as follow:

	£.	s.	d.
For a non-freeman	5	0	0
A freeman's son	1	13	6
A freeman's son-in-law	2	10	0

The exclusive privileges of this incorporation, in so far at least as relate to the *manufacture of linens* for sale or exportation, have been long ago taken away by Act of Parliament; still this corporation is more prosperous than most of the corporations in the town.

The property of the weavers consists of about 300 falls of land partly feued for building, and the remainder in the progress of being feued, of which the rents, in so far as not required for corporation purposes, are given into the funds of a friendly society, which was instituted in 1795. The corporation also has some houses in Cupar, and the rents of these, amounting on the average to £20, are paid to the society, and are considered entirely under its control. The deacon is of opinion that there is a principle of decay in the constitution of the society as it at present stands; and he has always been anxious that it should take the benefit of the Act of Parliament, and had circulated copies of the Act among the members.

Besides the property above mentioned, the treasurer has in hand £50 or £60 in cash; but about the same sum is due by the corporation. As a corporation they are in the habit of authorizing the treasurer to purchase meal when they think it about the cheapest, and to retail it to the members of the trade at a price equal to cover all expenses, including interest of outlay. In this way, without any loss to the corporation, the members at times are supplied with meal at 2*d*. per peck perhaps under the market price.

Corporation of *Tailors*.—The members of this incorporation consist of £20; and their fees of entry are:

	£.	s.	d.
For a stranger	20	0	0
For a freeman's son	1	13	0
For a freeman's son-in-law	2	17	0
For a free apprentice or person who has served his apprenticeship with a member of the trade	12	0	0

The tailors have always made a point of defending their privileges, both of themselves before the magistrates, and in conjunction with five of the other trades in a case before the court of session, in which last case their share of the expenses, and that of each of the other trades, was between £50 and £60. In consequence of these litigations, the corporation was involved in some debt, which, however, is now all paid, and their affairs

may be represented at the present time as quite free. But they have no property and no revenue, except what may arise from future entries or dues. The corporation are in the habit of modifying the extent of their entry monies; and the last admission was made for £11; it was at one time £20. A stranger admitted immediately before that paid £12 10*s*. No temporary licences are granted; and no unfreemen work within the royalty. There have been cases, though there are none existing at present, of a life-rent right being granted to tradesmen to follow their calling within burgh; but this was a mere personal right, and conferred no right of voting in the trade, or any benefit to relations.

Corporation of *Shoemakers*.—The present number of this corporation is 23; and the entry money,

	£.	*s*.	*d*.
For a stranger	20	0	0
For a free apprentice	10	0	0
For a freeman's son	5	0	0
For a freeman's daughter, if she marry a shoemaker not connected with the corporation	5	0	0
If she marry a free apprentice	1	0	0

Each member pays annually 4*s*.

The funds of the corporation are at present £110 in bank, under the control of a society for the benefit of sick members and widows, resembling very closely in its regulations those of the corporations of smiths and fleshers. One source of revenue to this corporation arises from the sums levied on public market-days from strangers allowed to erect booths or stalls in the market. These fees are levied at the rate of 3*d*., 4*d*., and 6*d*., in proportion to the stock of shoes exhibited at each place.

The corporation of *Waulkers* consists of 11 members.—The exclusive privilege of this trade consisted in the right of dyeing, waulking, and shearing woollen cloths, &c., within burgh; but for a great many years the corporation has exacted no entry money, fees, or annual payments from intrants or members; and the trade is, in fact, open to the public. The only privilege retained by the members of the incorporation is that of appointing a deacon, who formerly was a member of the council.

The corporation of *Bakers* possesses the exclusive privilege of baking bread within the burgh; and the members are thirled to grind all the flour used by them at Cupar Mills. The total number of members is 16, but there are only five carrying on trade within the burgh, and four beyond its bounds. There are three unfreemen resident within the bounds carrying on the trade or part of the trade, and they pay licences of 30*s*. each.

The entry money is:

	£.	*s*.	*d*.
For a stranger	50	0	0
For a freeman's son	2	0	0
For a freeman's son-in-law	5	0	0
Free apprentice of seven years, besides 30*s*. at his entry to his apprenticeship	20	0	0

In the admission of strangers it is not unusual to give a deduction of the rate, sometimes even to the extent of £20. The corporation has no property or funds, except about £60 in the bank: it has no widows' scheme, and is not as a corporation in connexion with any friendly society. They occasionally give assistance to poor people belonging to their trade; and the fund for this purpose is raised from the fees of intrants, and fluctuates very much in its amount. They sometimes contribute from their funds to public purposes, such as a subscription at one time to the academy of £30; and on that occasion they acquired a right of voting, through their deacon, in the choice of a master.

Corporation of *Fleshers*.—This corporation consists of 12 members, and the entry money is:

	£.	*s*.	*d*.
For a stranger	20	0	0
For a freeman's son-in-law	4	0	0
For a freeman's son	1	10	0

There are no unfreemen who work within the burgh. The corporation has never made any compromise as yet with regard to the entry dues. There has only been one entry of a stranger for 15 or 16 years. The property of the corporation consists of a common slaughter-house, and about £20 or £30 in bank. They have been connected with a friendly society for the last 20 years, the object of which is to provide for sick members and widows. The entry monies of the corporation are surrendered to this society, subject to the burden of defending their exclusive privilege. The members of the corporation are not bound to enter this society. There are only six or seven members of this society, and their contribution would not enable it to go on if it were not for the funds of the corporation. About three years ago it was thought necessary to reduce the rate of payment to widows from £2 2*s*. to £1 17*s*. 6*d*., and to the sick in a similar proportion.

The opinions in this burgh on the general question as to the value of the exclusive privileges were a little various. The feeling of the official persons connected with the management of the town is, that they are not of any advantage to the community, or to the trades themselves, except in so far as they are of the nature of benefit societies; and the constitutions of those societies which exist in Cupar seem to make it somewhat questionable whether this can be considered as a

CUPAR.

very strong ground for keeping them up. A notice of a motion is at present before the guildry for giving up their privileges in favour of such of the corporations as will do the same, and a strong party is understood to exist there in favour of the motion. The convener of the trades gave it as his opinion, that he considers "the exclusive privileges of his trade (the wrights) as very trifling. He was one of those who volunteered to throw the trade open if the rest of the incorporations would agree to it. No regular meeting was called with this view, but it was casually discussed at a time when they were engaged in a vexatious lawsuit; and although several more supported his views, he did not meet with such a general concurrence as would induce him to think it could now be carried in the corporation."

The deacon of the tailors "values these privileges as an old established custom, and as a thing he has paid for; but, as in most towns now, and in this town likewise, there are suburbs where strangers may compete in the trade; this circumstance makes these privileges much less valuable than they once were, and in his opinion, it would make very little difference to the members of the corporation if the exclusive privileges were thrown open."

The deacon of the bakers "put no value on the exclusive privileges at all, and, to the best of his belief, a majority of the trade are willing and ready to give them up."

The deacon of the fleshers "did not think those privileges of any material consequence to his profession, and he believed the feeling of the corporation on the subject to be, that if the rest of the trades were giving up their privileges, or if the exclusive privileges generally were done away all over Scotland, they would be very ready and willing to give up theirs." The deacon of the waulkers declared "that his corporation wished to see the whole corporations and trades generally thrown open." The deacon of the weavers declared "his opinion to be decidedly against all corporations and exclusive privileges, and that the great majority of the weaver corporation are of the same opinion."

On the other hand, the deacon of the shoemakers declared, "that his incorporation are disposed to stand very much up for their exclusive privileges, and that, though individually he would have no objection to their being thrown open, he does not think that a majority of his trade would vote for that. Perhaps their view might be changed if it was understood they were to be generally thrown open all over Scotland." And the deacon of the smiths stated his incorporation was "very much disposed—probably more so than any other trade in town—to stand up in behalf of their privileges. He does not think it would be a loss to the corporation if they were entirely done away with, but he does not think he would have a majority of the body of that way of thinking."

From these different views, it is not easy to deduce the general feeling of this burgh upon the subject; but the Commissioners are disposed to coincide with the view taken by the deacon of the weavers, who thinks, "that according to the best opinion he can form, the weavers, waulkers, and fleshers would, by great majorities, agree to throw open their corporations—that the shoemakers and the smiths would probably be the most hostile to such a resolution; but that the probable result of combining all the corporations in one vote upon the subject would be a resolution for throwing open the exclusive privileges of corporations generally."

SETT OF BURGH.

No change has taken place in the Sett of this burgh within the memory of man. The sett reported as having been observed upwards of 40 years before the year 1710 consists of a provost, three bailies, dean of guild, treasurer, 13 merchant councillors, a convener, and seven deacons of trades; in all 27.

The number of persons resident within the proper bounds of the burgh whose rents in property or tenantry amount to £10 and upwards is 194, of whom 130 are burgesses; including females and minors, there are of this class 100 more. The number of such persons whose rents amount to £5 and are under £10 cannot be accurately stated, but may be estimated at 250, of whom 150 are burgesses. Of the persons resident beyond the bounds of the burgh, but within the parliamentary boundary, whose rents in property or tenantry amount to £10 and upwards, there are 51 enrolled to vote for a member of parliament, and 25 not enrolled, being ladies and minors. The suburbs of Cupar are inhabited principally by persons whose rents in property or tenantry amount to £5 and are under £10, and their number may be computed at 300.

POLICE.

The watching, lighting, cleaning, supply of water, paving, and other matters of Police are not regulated in this town by any local statute. There is no regular watching, as the whole police department is managed by the town officers; and when an emergency occurs, special constables are sworn in. The cleaning is effected by scavengers employed by the town, who are paid out of the town's revenue; and the produce of the manure collected goes to the town treasury. At present the streets are let to a tenant who has them free of rent, and in addition receives £5 to have them properly cleaned. The lighting of the town is defrayed by subscription among the inhabitants, who appoint committees to manage their subscriptions. Water is not brought into the town in pipes. The paving of the streets, the expense of which of late years has been very heavy, is defrayed from the common good of the burgh. The trustees on the several turnpike roads which are connected with the streets have for some time past made an allowance of £17 10*s.* per annum for upholding them, being the allowance for half-a-mile of the ordinary turnpike road.

The whole of these departments of police appear to be very defective in this burgh. The magistrates have no funds to improve the system of police, and are doubtful of being able to continue even the present establishment of the town officers. Those who have the best opportunities of judging of the subject seem all to be agreed, that this town should adopt the benefit of the General Police Act, in order to meet by an assessment those expenses to which the funds of the town are now inadequate.

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GAOL.

The Commissioners found the Gaol an exceedingly bad one, unfit to receive criminal prisoners. No attention seems to have been paid in its erection to the health or safe custody of prisoners. It is placed on low wet ground, on the bank of the river Eden. The cells for felons are on the ground floor, cold and damp: there is no light nor air admitted to them except from a passage, through their grated doors; which passage is also the only place the prisoners can remove into from their cells, though crowded to excess. When the Commissioners visited it there were four sailors confined under sentence of twelve months' imprisonment in one small cell, apparently not larger than twelve feet by eight. There is no airing yard, no provision for cleanliness, and no means of warming the felons' cells, who must suffer in their health severely from confinement in a place which is totally unfit for the custody of human beings. The debtors' rooms are on the upper floor, and are comfortable.

DOCUMENTS.

The following Documents accompany this Report:

1. Return by the Town Clerk of Cupar to the Heads of Inquiry issued by the Commissioners, certified by him, October 29th, 1833.
2. Note of the Guildry Funds furnished by him as Clerk to the Guildry, of same date.
3. Examinations relative to the Burgh of Cupar, taken at Cupar, 29th October 1833.
4. Articles of the Corporation of Weavers in Cupar, Fife, dated 25th August 1795.
5. Regulations for the Incorporation of Wrights and Masons, Cupar, 9th December 1795.
6. Rules and Regulations for the Society of Hammermen, Cupar, Fife, July 26, 1805.

ROBERT GRAHAM.

REPORT

ON

THE BURGH OF DINGWALL,

(ROSS-SHIRE.)

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DINGWALL.

THE Royal Burgh of Dingwall is of some consequence, as the centre of an agricultural district, and the point of union of the Highlands of Wester Ross with the more fertile country on its eastern sea-coast. It possesses no manufacture, and its trade is confined to the supply of the necessaries for the district, and to the export of wood (chiefly small Scotch fir), and a little corn. Dingwall was erected into a royal burgh by a Charter of Alex. II. (6th Feb. 13th of his reign), by which he granted to it "omnes libertates et liberas consuetudines quas burgenses nostri de Invernes et in eo manentes habent." That charter was confirmed (and engrossed) by a charter of Jac. IV. (12th Feb. 1497), and again ratified by a charter of Jac. VI. (9th Feb. 1587.) HISTORY. Ch. in Archivis Burgi.

Dingwall had at one time a considerable extent of landed Property, which does not, however, appear to have been turned to much account while in the possession of the burgh, nor to have produced any considerable revenue. PROPERTY.

The town property began to be feued out, and far the greater part was so alienated, more than forty years ago. In most cases the grants were made to persons connected with or influential in the burgh, and without any competition or publication. But although, in such circumstances, the interests of the community were sometimes sacrificed, on other occasions the alienation of a large tract affording only pasture was sufficiently compensated by a very small permanent revenue, joined to the advantage arising from the extensive plantations or agricultural improvements of the vassals.

Within the last forty years the management of the town property has been comparatively pure; and latterly, alienations have taken place only after public advertisement, and by public sale, except in a very few instances, where small plots of ground, for erecting warehouses, or other such purposes, have been granted on the petition of individuals, for an annual duty fully equal to the value of the land.

The burgh now retains only seven or eight acres in property, which, with the superiority of certain lands held feu of the burgh, and fishings in the river Conan and the Dingwall Frith, produce altogether an average rental of £273 7*s.* 2*d.* sterling. REVENUE.

By an Act of Parliament passed in 1824 the management of the Harbour of Dingwall was vested in Commissioners, a great majority of whom consist of the magistrates of the town. The harbour was formed at the mouth of the river Peffer, in the years 1815—17, at an expense of £4,365, of which £1,786 was furnished by the Parliamentary Commissioners for Highland Roads and Bridges, £600 by the Convention of Burghs, and the remainder partly by the burgh, and partly by individuals interested in the success of the undertaking. The average income from this source, for five years previous to 1832, was £137, not more than sufficient to meet the expense of repairs and management. There are no debts affecting the harbour. HARBOUR.

The annual Expenditure of the burgh, consisting of salaries to officers, stipends and school salaries, repairs of public works, incidental expenses, and interest of debts, amounts to £181 14*s.* 10*d.* In this, however, is not included the interest which must ultimately be paid on a heavy account of law charges incurred in a process regarding the burgh's right of fishing in the Conan, the accumulation of which has not been prevented by the application of the whole surplus revenue of the burgh, for the last eight years, to that purpose. EXPENDITURE.

The Debts of the burgh amount to £2,367 10*s.* Two of these may be particularized. The first is a sum of £800 of damages incurred by the burgh through alleged failure in the custody of a prisoner confined for debt. This debt Mr. Stewart Mackenzie of Seaforth has undertaken to pay. The other consists of the large sum of £1,200, under the head of accounts due to law agents in London, Edinburgh, and Dingwall, in the fishing process above alluded to, which article of expense, taken into consideration along with heavy sums annually paid for the same purpose, gives rise to a question whether the subject in dispute, or at least the mode of occupying it contended for, was worth so much. DEBT.

The lands within the royalty are stated at a supposed rental of 338 bolls, 2 firlots; and according to the proportion held by each proprietor, he is stented for payment of the cess or land-tax now levied, and a sum of £45 yearly in commutation of the statute labour, under the Acts 6 Geo. IV. c. 90, and 9 Geo. IV. c. 102. These are the only local taxes now levied. Formerly the magistrates were in the habit of levying an impost, called personal stent, on the inhabitant householders, in aid of the assessment on property for the schoolmaster's salary; and, in virtue of an Act passed in 1824, they proposed to collect an assessment for lighting the streets, and to defray the expense of bringing water into the town, which last operation had been long before effected; but, owing to the discontent which these created among the inhabitants, they have been discontinued. The town is not now lighted. TAXATION.

The Jurisdiction of the magistrates, which extends over the royalty, is in practice confined to the trial of assaults and other petty crimes, and to the decision of actions of debt, processes of removing, sequestration, encroachment, and other civil causes to a very limited extent. JURISDICTION.

DINGWALL.

Their whole functions as judges are rapidly passing into the hands of the sheriff, who has a resident substitute holding regular courts at Dingwall.

PATRONAGE.

The magistrates and council have no Patronage except the appointment of the town clerk, at a salary of 10 guineas; two burgh officers, at £5 each; the keeper of the town clock, at £5; and a kirk officer, at a salary of 5*s*. annually.

EXCLUSIVE PRIVILEGE.

There are no incorporated trades claiming Exclusive Privileges within this burgh. Persons carrying on merchandize within the burgh must take out their freedom as burgesses, the expense of which varies from five to 15 guineas, according to the nature and probable extent of the trade to be carried on; or they may obtain a temporary licence from the magistrates to open shop at the rate of 5*s*. a-day or less.

The members of council were not necessarily burgesses before the Burgh Reform Act came into operation. When the Commissioners visited Dingwall, there were not more than three burgesses within the burgh who had contributed in any amount to the common good; neither the sons nor the apprentices of burgesses, nor honorary burgesses, pay any burgess fine at entry. Craftsmen may exercise their crafts within the burgh without becoming burgesses. There is no guildry nor any other incorporation.

CONSTITUTION. Present Sett.

The council consists of 15 members, including a provost, two bailies, a dean of guild, and treasurer. Previous to the operation of the Burgh Reform Act, two councillors were necessarily changed yearly, and no person could be a magistrate until he had been two years in the council. The number of councillors required by the constitution is quite disproportioned to the size of the town, which cannot afford so many persons fit for the office. The better informed part of the community are of opinion that five would be a sufficient number, and that the duties will be more efficiently discharged. The number of persons residing within the royalty (which includes the whole parliamentary boundaries) whose rents in property or tenantry amount to £5 and upwards, and below £10, is 66; of £10 and upwards, there are about 100. The cleaning, lighting, paving, and supplying with water are regulated by the statute 5 Geo. IV., c. 93, but it contains no provision for watching or general police. The police is accordingly very defective.

DOCUMENTS.

The following Documents accompany this Report:

No. 1. Answers to heads of inquiry issued by the Commissioners, September, 1833.
2. Statement of number of £10 and £5 householders.
3. Account of canal dues from 28th June, 1832, to 29th June, 1833.
4. Account of charge and discharge of the burgh from Michaelmas, 1831, to Michaelmas, 1832.
5. Return of number of burgesses and guild brethren of Dingwall, 1832.
6. Statement of affairs of canal or harbour at Michaelmas, 1831.
7. Act regarding the harbour and regulating the police of Dingwall, 1824.

ROBERT HUNTER.
C. INNES.

REPORT

ON

THE BURGH OF DORNOCH,

(SUTHERLANDSHIRE.)

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DORNOCH.

GENERAL DESCRIPTION.

THE Royal Burgh of Dornoch is the county town of Sutherland, but it is extremely insignificant in every particular; and there is no reason for thinking that it can ever become of more importance. It is literally a village, consisting of a church, a gaol, and a very few houses, without trade or manufactures of any kind. Although situate within a short distance of the Firth of Dornoch, no harbour can be formed, by reason of the shallowness of that estuary. It is within a mile of the great north road, but there appears to be no inducement for so altering the line as to make that road pass through the town.

CHARTER. No. 5.

The only Charter produced was granted by Charles II., and is dated the 14th July, 1628. By it Dornoch was erected into a royal burgh, with the ordinary privileges, but with a reservation in favour of the Earl of Sutherland, of his hereditary right of the lands of Dornoch, and all buildings erected, or to be erected, within the burgh, with all the rights and casualties specified in his titles, but with the following reservation: "Reservato tamen dilecto nostro consanguineo, Joanni Sutherlandiæ Comiti, suis hæredibus masculis et successoribus, suo hereditario jure dictarum terrarum de Dornoch, et omnium edificiorum et lie outsettis infra dictum Burgum edificat et edificand. Tenend. de prefato Comite, suis hæredibus masculis et successoribus, simili modo tentiones quo nunc eadem tenentur et habentur, vel prout dicto Comiti et suis prescriptis eadem incolis ejusd. posthac disponere placebit una cum annuis devociis in suis infeofamentis specificatis et specificandis, et cum introitibus tenentium per decessum resignationis, vel alio modo quocunq. adq. et omnes alias casualitates que hereditariam, proprietatem, vel superioritatem prefatarum terrarum dicti Burgi, et omnium edificiorum et tenementorum; cum lie mossis earundem, consequi poterint, prefatus Comes suiq. prescripti plenum jus habebunt non obstante erectione dicti Burgi Baronie."

ARTICLE I.

PROPERTY AND REVENUE. Nos. 1, 2, 3, 4.

The Property of the burgh consists of the Links in the neighbourhood, which, for the year 1832-3, were let by public roup, for the sum of £2 1*s*.

A right to a salmon fishing appears also to have been claimed, but never to have been rendered effectual, and it has not been included among the sources of Revenue.

The rest of the annual income is derived from custom and market dues, which, for the year 1832-3, were let for £1 14*s*., being a diminution of £1 16*s*. from the rent of the year preceding, for which the rent was £3 10*s*.

The accounts are regularly made up, audited, and docqueted, and deposited in terms of the statute, and afterwards lodged in Exchequer.

No Debts are owing by this burgh.

ARTICLE II.

TAXATION.

No Taxes or Assessment are imposed.

ARTICLE III.

JURISDICTION. Extent.

A claim is made for a very extensive and apparently undefined royalty, greatly exceeding the parliamentary boundaries; but the territory over which Jurisdiction has been exercised is understood to be limited to what may be called the burgh proper.

Nature.

While the magistrates deem that they have the ordinary powers, the only causes that come before them are, *first*, applications under the Act of Grace; *secondly*, on sick bills; and, *thirdly*, removings. For the years from 1829 to 1833 there have been 13 of the first, one of the second, and eight of the third class. No criminal jurisdiction has been exercised for several years, and previously the cases were of a petty description, and of rare occurrence.

ARTICLE IV.

PATRONAGE.

This burgh has the usual complement of officers, elected by the magistrates and council, some during pleasure, others annually, and one,—the town-clerk,—for life. The magistrates alone appoint the town-officers and gaolers, and the other office-bearers are appointed by the whole council. All serve in person. The salaries are, town-clerk, £5 3*s*. 4*d*.; head gaoler, £20; and under gaoler, £15. These salaries are paid out of the common good, as far as it will go; but, it being inadequate, the difference has for many years been made up by the provost of the burgh,—the present Duke of Sutherland.

The burgh has no church or school Patronage.

ARTICLE V.

EXCLUSIVE PRIVILEGE.

There being no Privilege attached to burgess-ship, there are no burgesses. Any person who thinks proper sets up a shop, and trades without challenge.

No. 2. p. 3, 4. September 27, 1833.

In his declaration the town-clerk stated that, in so far as he knew, the inhabitants do not hold their property in burgage, but of the family of Sutherland. But in a letter subse-

DORNOCH.

No. 6.

quently, addressed to the Commissioners, he states that he had made particular inquiry regarding the holdings, and requests that his declaration on that subject may be corrected, by inserting in it the following paragraph: "That the family of Sutherland have, and especially of late have claimed, as interjected superiors, a right to certain feus within what is termed the royalty of the burgh of Dornoch, but the declarant has no access to know on what written title this right is founded; and it consists with his knowledge that there are various tenements within the burgh who still hold by written titles, in burgage of and under the magistrates as superiors, and infeft by hasp and staple."

ARTICLE VI.

Sett of Burgh.

No change has taken place on the Sett since the year 1819. The council consists of a provost, four bailies, a dean of guild, a treasurer, and twelve councillors.

The number of persons resident within the royalty, whose rents in property or tenantry amount to £10 a-year and upwards, are about 20. The number of such persons whose rents amount to £5 a-year or upwards, but do not amount to £10, are about 40. These comparatively large numbers are to be accounted for by reason of the alleged extent of the royalty. There are none resident beyond the proper bounds of the burgh, but within the parliamentary boundaries, whose rents amount to £10 or £5.

ARTICLE VII.

Police.

There is nothing peculiar regarding the Police of this burgh.

Prison.

The Prison of Dornoch consists of two apartments, forming the two upper stories of an old tower, formerly a part of the palace of the bishops of Caithness, and now included under the entailed estate of the family of Sutherland. Each of these apartments is subdivided into three portions by wooden partitions. There is no room for classification, nor for separate accommodation for the sick; and there are no airing grounds. The prison cannot be deemed sufficient, either as to size, accommodation, or security.

Documents.

The following Documents accompany this Report:

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Declaration of Robert S. Taylor, Town Clerk.
3. Certified Copy Account of the Revenue of the Burgh.
4. Certified Copy Minute of the Magistrates of Dornoch, relative to Letting of Customs.
5. Copy Charter in favour of the Burgh of Dornoch, 1628.
6. Letter Town Clerk of Dornoch to Burgh Commissioners, 27th Sept., 1833.
7. Return of Number of £10 Houses within the Royalty and Parliamentary Boundaries.

ROBERT HUNTER.
C. INNES.

REPORT

ON

THE BURGH OF DUMBARTON,

(DUMBARTONSHIRE.)

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DUMBARTON.

DUMBARTON was the head town of the Earldom of Lennox, and is of high antiquity. It passed into the Crown's hands along with the castle, which was resigned by Earld Maldwyn to King Alexander II. That king soon after, in the earlier part of the thirteenth century, erected Dumbarton into a free royal burgh, with extensive privileges, which appear to have been at variance with those of a similar kind conferred by the same monarch on the city of Glasgow. HISTORY, CHARTERS, &c.

The burgh obtained other Charters from succeeding monarchs, all of which were confirmed by a charter of James VI., dated in 1609, and ratified by parliament in 1612.

This charter confirms to the town all the usual privileges of royal burghs in their fullest extent. It also grants or confirms to the community considerable property in land, and extensive fishings in the Leven and Clyde. It gives the town right to a free port, in the same manner as Edinburgh has in Leith, and further conveys a right to levy customs and dues on shipping navigating the Clyde between the Kelvin Water and Loch Long.

The rights and privileges of the burgh were ratified by subsequent Acts of Parliament, in 1641 and 1661. Among those ratified is the office of sheriffship within the burgh, and its territory by land and water, with full power to hold courts, and to levy escheats and amerciaments, and to apply the same for the good of the burgh. Finally, by Act of Parliament, in 1695, the burgh obtained right to hold two fairs annually. Acta Parl. V. 541. VII. 219. IX. 501.

The burgh is nearly altogether divested of its landed property, excepting the *Town's Muir*, which is a valuable piece of pasture land. The charter of James gave power to the magistrates to alienate their property, with the exception of a piece of ground then lately recovered from the Leven, which they were prohibited from selling. This ground also still belongs to the burgh, and is called the *Broad Meadow*.

The right granted by the charter of King James to the burgh, to levy Customs and Duties in the Clyde, deserves to be more fully explained. The charter first grants all and whole the river of Leven, from Balloch to Dumbarton Castle, with the salmon and other fishings thereof, with the liberty of the same on both sides, till it meets the sea; and then proceeds "*ac etiam libertate dicti fluvij de Clyde,* cum piscationibus salmonum aliorumq. piscium infra bondas predictas, viz. *intra dictam aquam de Kelvine et caput de Lochlung,* possidend. per eos eorumq. successores adeo libere sicuti ipsi aut eorum predecessores easdem aliquo tempore preterito possedebunt *eximendo eos eorumq. successores in perpetuum ab omni solutione assise cerevisie aut halecum per eos eorum cymbas navigatores et piscatores cuicunq. persone ut predictum est.*" The charter goes on to convey to the provost and bailies of the burgh, and their successors, factors, and collectors, special power and authority of levying and receiving "totas et integras parvas custumas intra omnes bondas dictorum fluviorum de Levin et Clyde, cum coquetarum divoriis, vulgo vocat dewtie of coquettis, entries of ships, barques, crears., and other vessels, water measures, dock maills, shore silver, assize bolls, with duties of measurage and weighage, *ac cum omnibus aliis custumis impositionibus et divoriis bonorum ad et a dicto burgo portubus littoribus et stationibus quibuscunq. infra dictos fluvios et bondas predict. transportand.*" And, to make effective the right granted, the charter contains a clause prohibiting the lieges and foreign merchants coming within the waters of Clyde and Leven, especially within the limits specified, that none of them break bulk, tap, or sell, until they come to the burgh of Dumbarton, and enter their ships, with their goods and merchandize, in the books of the burgh, and make market with the burgesses, and liver their vessels, according to ancient custom. Further, they are required to take cockets before their departure, and to pay to the provost and bailies the customs, anchorages, assize bolls, &c., before mentioned, under the pains against contraveners contained in the Acts of Parliament. Powers of Levying Duties in Clyde.

"The right thus given to Dumbarton extended in the Clyde, from where the Kelvin falls into that river, three miles below Glasgow, to the head of Loch Long, an arm of the sea which opens into the Frith a considerable way below Greenock. The space thus limited excluded Glasgow; but it comprehended Greenock, and the ground in the vicinity of Greenock on which the town and harbour of Port Glasgow were subsequently formed. The valuable privilege conferred on Dumbarton by the charter thus was, that every vessel, whether foreign or belonging to native-born subjects, coming within these limits, was bound to go to, pay duties at, and take clearances from Dumbarton; and that no merchants could carry their effects to any other harbour, either then existing, or to be afterwards made within these limits, in defraud or evasion of the lucrative right thus vested in the burgh of Dumbarton. Besides, the clause by which all vessels were bound to break bulk, and make market with free burgesses, gave rise to a claim of the greatest value to Dumbarton. This was styled the 'offers dues,' and was levied, without opposition, from all foreign vessels coming into Clyde." It is described in the contract immediately to be mentioned between Glasgow and Greenock, "as obliging strangers to make the first offer of the goods and merchandize imported by them into the Clyde to the burghs of Glasgow and Dumbarton, at such expense Statement by Committee of the Burgesses of Dumbarton, printed in 1829.

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and rate as the strangers offerers shall not have power or liberty to undersell the same to others."

Contract between Dumbarton and Glasgow.

The town of Glasgow pretended to the possession under their charters of certain rights, at variance with those belonging to Dumbarton. In consequence, during the seventeenth century, there were constant disputes between the burghs. These were terminated, in the year 1700, by a Contract, by which the town council of Dumbarton sold and disponed to the town council and community of Glasgow the dues payable to the burgh of Dumbarton by all ships coming into the Clyde, of which the freemen of Dumbarton were not owners; and also their share of the 'offers dues.' For these rights the town of Glasgow paid to Dumbarton the sum of 4,500 merks, (about £260 sterling,) and the burghs mutually agreed that the vessels belonging to the burgesses, inhabitants of Glasgow and Port Glasgow, should not pay duties in the harbour of Dumbarton; and, on the other hand, the vessels of Dumbarton burgesses should be exempted from duties in the harbours of Glasgow and Port Glasgow. This contract was ratified by the Convention of Burghs, and the Scottish Parliament, in 1701.

Acta Parl. VII. 650, and X. 322.

Attempt of Clyde Trustees to Abrogate Rights of Dumbarton.

By various Acts of Parliament, the navigation of the Clyde has been put under the management of Trustees, and in this parliamentary trust is now vested the rights originally belonging to the burgh of Dumbarton, and afterwards transferred to Glasgow. These trustees made an Attempt in 1825 to Abrogate the Rights of exemption from river-dues belonging to Dumbarton,—an exemption which had now become of considerable value, owing to the high rates levied by the trustees, and the improvement in the navigation of the river. They were, however, defeated in parliament, and the rights of Dumbarton formally recognized, under a slight modification, intended merely to guard against frauds. Notwithstanding this, the Clyde trustees again attempted, in 1830, to abrogate the obnoxious exemption, and promoted a bill for that purpose, which provided for a valuation and purchase of it; but a committee of appeal threw the bill out, as in breach of a solemn bargain between the parties. The trustees had proposed in committee to give a sum of £16,000 to Dumbarton, as the price of its exemption, besides saving the rights for their own lives of persons then burgesses of Dumbarton. There seems to be no doubt that the exemption is worth a considerably larger sum.

See Act 6 Geo. IV. c. 117.

POPULATION.

The population of the burgh and parish of Dumbarton, in 1821, was 3,481. By the census 1831, it is 3,623; and the number of inhabited houses 373.

The town is not increasing in size or importance. Its trade is at present inconsiderable; and it is not distinguished for any manufactory except an extensive glass-work. But shipbuilding thrives, and is carried on to a considerable extent. Extensive bleach-fields and print-fields are established on the Leven, a few miles above the town.

PROPERTY.

The Property of the burgh of Dumbarton consists of the Town's Muir, the Waulk-Mill Lands, and the Broad Meadow; of an inn in the town, called the Elephant Inn; of certain buildings in Quay-street; of pews in the parish church of Dumbarton, to which the burgh is entitled in its double character of an heritor and patron of the parish; of a corn and flour-mill, called the Town's Mill; of fishings in the Water of Leven and in the Clyde; and of feu-duties payable by its vassals within the burgh. The harbour of Dumbarton, the flesh-market, and burgh school-house, belong to the burgh.

Valuation of Property.

A Valuation of the Property of the burgh was exhibited, stating its worth at £17,910 14*s*. But it did not appear that the valuation was made upon correct data, or by a competent person; and the same property, in the year 1819, was valued at only £10,658 4*s*. The explanation given of so great a discrepancy was, that the town's mill had been rebuilt, and the town's inn repaired, both at considerable cost; that the rent of the fishings had much increased; and the town's muir it was thought would bring, if sold, a larger price than had formerly been supposed. The explanation was not satisfactory to the Commissioners; and it is remarkable that when the property of the burgh was valued at the lower sum, its debts were then within £300 of the estimated value of its property; and since the debt has increased to £19,108 10*s*. 1½*d*., the magistrates have discovered that the value of the property has made an equal advance; for they now estimate it at such a sum, as along with £2,132 1*s*. 10*d*. of arrears claimed by the burgh, makes it appear that its assets are sufficient even now to meet its debts, and still leave a larger balance than before in its favour.

REVENUE.

The annual Revenue of the burgh arises chiefly from its property, the rent of which is stated in the return by the town clerk at £1,030 6*s*. 8*d*. per annum. Of this sum £385 arises from the fishings in the Leven and Clyde; £140 from the pasturage, and £40 from the game in the town's muir; £185 from the rent of the town's mill; and £210 from the rent of the town's inn.

The following is the abstract of the annual revenue contained in the return made by the town clerk:

	£.	*s*.	*d*.
Rents of fishings, muir, mill, and inn, and other property	1,030	6	8
Feu-duties	17	17	4
Water of Leven customs and market dues	54	0	0
Harbour dues	145	5	0
	£1,247	9	0

It is probable that the rent put upon the town property in this abstract may be obtained from succeeding tenants, when the present leases expire, though it must be observed that a large part of the revenue arises from the rent of fishings, which is variable and precarious. But the amount at which the harbour dues are stated is overcharged, as it includes an estimate of the dues which the town is supposed to be entitled to draw from steam passage-boats, but which are disputed, and of which, as will be seen under the next head of this Report, the proprietors of these vessels have refused payment for many years. On an average of the last five years, the harbour dues have amounted to little more than £70 per annum.

The burgess entries have been omitted in the return of revenue. They vary considerably in amount each year. Last year they produced only £5 13*s.*, but, on an average of the last six years, the amount may be stated at about £15.

EXPENDITURE.

The following is the return made by the town clerk of the annual Expenditure of the burgh:

	£.	*s.*	*d.*
Salaries to officers	80	17	0
Interest of debts, at five per cent.	829	0	0
Annuities	36	0	0
Stipends and school salaries	45	12	0
Cess	2	6	0
Repairs of property	40	0	0
Insurance duty	11	9	6
Aliment to county criminals after trial, and to burgh criminals	47	18	0
Total	£1,093	2	6

This return is imperfect and erroneous. It is not an estimate of the expenditure drawn from the average amount of the same for some years preceding, but includes only those articles which must be annually provided for, as necessary and unavoidable. There is no allowance for extraordinary outlay on property, though from the nature of the burgh's property, namely, a harbour, mills, markets, and an inn, extraordinary outlays will occasionally be required, and such in fact has been the case hitherto. Neither is there any allowance for law expenses, ordinary or extraordinary, though these have always formed a large drain from the revenue of the burgh; so great, indeed, as to have been a chief cause of the increase of its debt to its present amount. Nor is there any allowance for miscellaneous and casual expenses, though these also form items in the accounts of preceding years.

This return is also erroneous in stating the interest of the town's debt below its real amount. The open accounts due by the burgh bear interest by law; and as to the disputed claim, it may, in estimating the obligations of the burgh, be assumed at present as likely to be established, as it is acknowledged it must be to some extent. Instead, then, of the interest of the burgh's debt being £829, the real amount is £955 4*s.* 6*d.* After correcting this mistake as to the amount of interest, the annual expenditure of the burgh, under the heads contained in the town clerk's return, will be £1,219 7*s.* But, allowing also for the omitted heads of law and miscellaneous expenses, the Commissioners are disposed to think that the expenditure of the burgh, so long as its debts bear interest at five per cent., will at least equal, if not exceed, its annual revenue as estimated in the return which has been made.

DEBTS.

The Debts of the burgh are stated to be,—

	£.	*s.*	*d.*
On bills, including arrears of interest	15,269	0	11½
On open accounts	2,697	10	9
Disputed claims	1,141	18	5
	£19,108	10	1½

The open accounts are due to law agents and tradesmen. The disputed claim is the bill of costs of solicitors in London, in the matter of the opposition made by the burgh to a bill brought into the House of Commons, by the River Clyde trustees. The town clerk stated that there were sundry small claims against the burgh, not included in the statement of its debts, as they had not been ascertained when it was made out. It is probable the amount of the debt will be increased from another cause, as some of the town's creditors have begun legal proceedings, to attach its property for payment of their debts.

ALIENATIONS.

The property Alienated within the last 40 years has consisted of some pieces of land, a tenement of houses, and the old gaol. These sales have produced the sum of £2,048. The burgh, during this period, acquired the property of some houses in the village of Kilpatrick, conveyed to them by a creditor whose debtor had escaped from Dumbarton Gaol through the negligence of the gaoler, thereby rendering the magistrates liable to the creditor for the full amount of the debt for which he had been imprisoned. The magistrates, on payment of the debt, were assigned into the property of these houses, which had been held by the creditor in security of his debt. They were sold by them in 1829, for £500. The amount of the debt which they had to pay to the creditor on account of the escape was £607 8*s.* 8*d.*

Complaints of Burgesses regarding Alienations.

Minute of Meeting with Burgesses, p. 9. Council Record.

The circumstances attending two of the Alienations of property deserve to be mentioned. The one was a tenement of houses, which the Commissioners were informed by a committee of the burgesses had been originally what is called a wastage, and rebuilt by the town at the expense of £1,000, eight or nine years before the alienation was made. The Commissioners could not ascertain distinctly whether the rebuilding cost so much, and the town clerk stated, that he did not think it at all likely it could have done so. From the Minutes of Council, of

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date 1st November 1811, it appears that the provost stated, that application had been lately made to him to know whether the council were disposed to sell the tenement; and the council resolved, that considering it had been lately very expensive in repairs and otherwise, a sale should be attempted; and authorized three of the magistrates to sell it, either by public roup or private sale, at a price not less than £450. At the next meeting of council, on the 11th of the same month, a member of council, filling the office of master of works, offered the sum of £450, which the council accepted, and sold him the house. It does not appear whether the sale was ever advertised, but it was a private sale made to a member of council without any opportunity for public competition, though it was represented to us that two other persons were anxious to become purchasers.

Council Record.

The other alienation was made by public roup, but the circumstances attending its acquisition are singular. In 1815, the provost of the burgh, himself presiding at the Council meeting, and signing the minutes, made offer by letter of £525 for a piece of ground called the Capon Acre, which the council at the same meeting accepted, and ordered the sale to be carried through. But it seems the transaction was never completed, for in 1821 the council resolved to sell Capon Acre by public roup, "considering (as their minute bears) that their former private sale was not gone into for various reasons, and that the community are at present in want of cash." The upset price was fixed at £420, and it was bought at £451 by a person who declared that he did so on behalf of the same gentleman, still provost of the burgh. The then town clerk was examined regarding this transaction, but he could not explain why the first sale did not take effect, nor why there appeared no minute of council releasing the provost from his bargain, or stating the reason of its not having been completed. Neither could he give any reason for the upset price at the roup having been made so much lower than the provost had previously contracted to pay.

Declaration of R. Colquhoun, p. 13.

Administration and Management.

The Administration and Management of the revenue and property of this burgh for a series of years call for very particular notice. They are the subject of loud and general complaint on the part of the burgesses and inhabitants, a committee of whom waited upon the Commissioners to solicit investigation into some matters of which they specifically complained, as well as generally into the cause of the pecuniary embarrassments into which the burgh has fallen. The Commissioners are bound to state that many of these specified complaints have been supported by an examination of the records and accounts of the burgh, and the justice of the charge of general mismanagement is proved by the fact that the burgh is in a state of bankruptcy. Its management for many years has exhibited most reckless borrowing and an equally prodigal expenditure. Its property has not been turned to the best account, and money has been expended without any proper check over the workmen employed, either as to the sufficiency of their work or the reasonableness of their charges. Law proceedings have been inconsiderately begun and persevered in at an immense annual expense. The result of all has been a constant accumulation of debt; and the credit of the burgh is now entirely gone.

Progress of Debt. Mode of Keeping the Burgh's Accounts.

The Commissioners found great difficulty in tracing the Progress of the Debt. The only Account kept till a recent period was one of charge and discharge between the town and its treasurer, on the one side exhibiting merely all monies received by him, on the other all payments made by him. Under Receipts was included the money borrowed, and under the Discharge payment of interest when made, for it was frequently in arrear. The yearly account of charge and discharge thus never exhibited in any one year a complete state of the burgh's affairs. It was impossible to discover either the amount of the burgh's debt, or the proportion which its real income bore to its expenditure. And as to debts on open account and unsettled claims, there were no materials to exhibit their amount.

According to the best information which the Commissioners could obtain, the debt of the burgh was in 1793 about £2,500. In this year the burgh had a real surplus of income of £52. Matters continued without any considerable variation till 1800, the debt having apparently fluctuated very little in amount. In 1802 it had increased to about £3,500, and the expenditure of the burgh now exceeded its income by £55.

After the year 1802 the burgh proceeded adding to its debt every year; and, notwithstanding the money annually borrowed was placed on the credit side, there was almost invariably, each succeeding year, a balance on the year's accounts of the treasurer against the town.

In the year 1819 the books of the burgh exhibit, for the first time, an account of its debts, which are stated at £10,435 7*s.* 10*d.*; and, in order to prove its ability to discharge them, there is contrasted with that statement a valuation of the burgh's property, which is estimated at £10,706 15*s.* 6*d.*, thus showing a balance in favour of the burgh of £271 7*s.* 8*d.*

The treasurer's account of charge and discharge of the next year, ending August 1820, gives an abstract, distinguishing, it is said, the permanent revenue from that which is not permanent, as follows:

	£.	s.	d.	£.	s.	d.
Amount of discharge, supposed permanent - - - -				1,415	11	11¾
„ „ supposed not permanent - - - -				1,013	15	8¼
				£2,429	7	8¼
Amount of charge, supposed permanent -	1,153	12	6			
„ „ supposed not permanent	908	11	6			
				2,062	4	0
Balance due to treasurer - - - -				£367	3	8¼

From this abstract it appears that the revenue of the burgh was estimated at £1,153 12*s.* 6*d.* and its expenditure at £1,415 11*s.* 11*d.*, thus showing the insufficiency of the income to meet the claims upon it. Yet, with this state before them in the cash book of their treasurer, the magistrates, in the statement book of the burgh's affairs, begun the preceding year for the purpose of showing the value of its property, as contrasted with its debts, inserted what is professed to be an abstract of the amount of its revenue and expenditure for 1820, in which they bring out a balance in favour of the town, thus:

	£.	*s.*	*d.*
Amount of revenue - - - - - -	1,153	12	6
„ expenditure - - - - - -	996	15	9
Balance in favour of the town -	£156	16	9

It is unnecessary to make any other remark on the discrepancy between these statements, than by quoting a Minute of Council, dated 26th April of the next year, respecting an offer made by the magistrates, of £1,000 to the county as the burgh's proportion of the expense of building a new gaol, in which the cause assigned for making the offer is, "that their expenditure, for the preceding three years, had exceeded the revenue;" and it is added, "although part of the usual expenditure of that period had been defrayed by individuals." Council Record.

Notwithstanding this state of its affairs, and the publicity given to the burgh's accounts by lodging them annually in the town clerk's office, under the Act 3 Geo. IV., c. 91, no effectual measures were taken to diminish its expenditure. Nor did its accounts, though containing sufficient evidence of its true situation to excite the suspicion of inquirers, and open their eyes to its pecuniary difficulties, give any fair and complete state of the burgh's affairs. Attempts to conceal its real state, by a complicated mode of framing the annual account, were continued; and, by artifices calculated to deceive the careless observer, the revenue of almost every year is in the abstract stated to exceed the expenditure.

The town's treasurer, or collector, who also filled the office of town clerk, was examined respecting the mode in which the accounts were made up. He declared, "that he entered office as town's collector in 1802; and being interrogated, If he had ever known, since that time, the balance in any one year to be in favour of the town? declares, That he does not recollect of its ever having been so: and being referred to the statement book of the town's revenue and expenditure from 1819 to the present time, and interrogated, Whether it does not appear, that in the annual balances of the revenue and expenditure, the revenue is stated to exceed the expenditure, and that this result is brought out by entering under the head of revenue the money borrowed during the year? declares, That he sees that to be the case." Declaration of late Town Clerk, p. 15.

He adds, that the statements were made up by a councillor under the superintendence of the provost, in whose service the councillor was a clerk; but he admits that he was himself cognizant of the proceedings.

The inconsiderate way in which debt was contracted forced itself upon the Commissioners' notice in examining the council record. They observed from the minutes, that when Money was Borrowed, the first step was, not to bring the subject before the council, and, after showing the necessity for a loan, obtain their authority to raise it. In a great many instances the collector simply reports to the council that he had received cash advances from members of council, or other persons, and the money being not only already borrowed, but even expended by the collector, he is authorized by the council to grant bills for the total amount of the sums received by him. Not only was this a common practice, but various instances appear of payments made to creditors, not through the natural medium of the treasurer, but by members of council, whom the council afterwards recognise as creditors of the town for the advances so made, and grant them bills for the same. For example, the minutes bear, "Bill ordered to be granted for £300 to the provost for cash laid out by him on account of the town, to sundry persons for furnishings to new buildings and otherwise, and cash advances to collector." And, of the same date, "Bill ordered to be granted to the eldest bailie for £1,060 2*s.* 3*d.*, as cash advanced by him on account of the Dumbarton Glass Work Company, including an account of stones for the new building." The practice in this respect is fairly admitted in the examination of the late town clerk. He states, that "the magistrates, particularly Mr. John Dixon, who was full of money, were accustomed to advance payment of the accounts, and afterwards to be reimbursed by the council, or an order granted to acknowledge the sum advanced as a loan made to the burgh." And he adds, that "before payment was made in this way the account had not always received from the council a warrant of payment; but the magistrates just paid the account, and reported at the end of the year what had been done, when the council sanctioned the payment." Mode of Borrowing Money. Council Record, 1st December 1809. Declaration of R. Colquhoun, p. 11.

It has been the misfortune of this burgh that it was able to borrow money with extraordinary facility. About 30 years ago one family became predominant in the town council. The members of this family were great capitalists, and engaged in a most extensive manufacture in the burgh. One of the family was constantly provost, and other places in the council were filled by members of the family, and their dependants. The control of the burgh's affairs appears to have been exclusively in their hands. They seem, as in the instances above given, to have frequently superseded the treasurer, and even the council, and to have made payment whenever they thought fit of tradesmen's accounts, as if they had been the sole managers of the affairs of the burgh. When money was wanted, the treasurer of their manufacturing establishment appears to have been usually resorted to for assistance, and the advance supplied, or the account paid. Hence no difficulty was experienced by the council in

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obtaining funds to meet the most lavish expenditure. It is proper to add, since the burgh is now in difficulties, that this company is its greatest creditor, and that there appears to have been no anxiety among its partners to save themselves from the consequences of those embarrassments, of which they were perhaps the chief cause.

Application of Money Borrowed.

While the burgh has borrowed so much money, the Commissioners cannot report that any considerable portion has been expended in works of public utility, or which afford any hope of some return upon the capital expended, at any period, however remote. A portion has been laid out in rebuilding the town's mills, and improving the town's inn, but, under good management, this expenditure might have been met by the growing revenue of the town, which is now about treble the amount of what it was 30 years ago. The harbour is unimproved, and the burgh exhibits no marks of a liberal and judicious expenditure, for the credit of the town and the comfort of the inhabitants. In short, nothing seems to have been undertaken by the magistracy which could justify or excuse the contraction of so much debt. The burgh's embarrassments are to be traced altogether to its expenditure having been always allowed to exceed its income, and the consequent accumulation of debt; and particularly to its enormous law expenses, amounting since 1807 to above £6,600. These were incurred in a long litigation with neighbouring proprietors respecting the boundaries of the town's muir, and in two different parliamentary contests with the city of Glasgow and Clyde Trustees in regard to the burgh's privileges in navigating the Clyde.

Prospects of Burgh.

The present financial state of the Burgh requires an unsparing retrenchment of expenditure, and a judicious management of its resources, to enable it to meet the pressing difficulties under which it has lately passed into the hands of a new magistracy. By entering into an arrangement with the Clyde trustees for abrogating the burgh's privileges in that river, there seems little doubt that such a sum would be obtained in compensation of this right as would pay off the whole of the debt, and leave the property free. It is the opinion of the provost that this plan should be adopted in preference to disposing of property, and he gives as the reason for this opinion, that the privilege does not benefit the whole inhabitants, but is of advantage only to a few. It must not be overlooked, however, that the privilege is of increasing importance to Dumbarton, and affords some prospect of raising the burgh in trade and population above its present apparently stationary state.

Declaration of A. Dixon, p. 3.

Complaints of Burgesses.

The Complaints brought under the Commissioners' notice by the committee of Burgesses are various, and some of them of a very grave character. The Commissioners thought it their duty to investigate all of them with great care; and for that purpose they perused the minute books of the council, and called for various papers from the town clerk, and also the vouchers of the treasurer's accounts. It does not seem necessary, however, to detail each complaint, and the results which the investigation brought out. A particular minute of the more important complaints stated to the Commissioners will be found in the memorandum of their meeting with the committee of burgesses; and the answer made to the grounds of these complaints will be seen in the examinations of the late and present town clerks. Two of the complaints have been already considered under the head of alienation of property. Here the Commissioners will confine themselves to some of the charges which fall properly under the present head.

Declarations of R. Colquhoun and R. Grieve.

Complaint regarding Lease of Fishings.

The first subject of Complaint was that the Fishings belonging to the burgh had for many years been privately let, and under their value, to a person who was nephew to two members of council, and was, while he held the fishings, himself also for two years a member of council.

Declaration of R. Grieve, p. 13.

From the examination of the present town clerk it appeared, that the person alluded to, one David Auchinvole, was tenant of the fishings for 12 successive seasons, and that they were et to him privately. It was admitted that two of his relations were during the whole of that period, and had for many years previously, been members of council. One of these relations held also the office of master of works, and was the person who had acquired in the year 1811 (then being himself a member of council) some of the town's property by private sale, as already mentioned in a previous part of this Report. It was further admitted that Auchinvole, during his possession of the fishings, was elected a member of the town council (which in this burgh was purely self-elected), and that he was a councillor when he obtained his last year's lease of the fishings. With regard to the charge again of the rent being inadequate, it was admitted that the previous tenant of the fishings, who had possessed them for several years, and had died during the currency of his lease, paid a higher rent (£210) than his successor ever did; but it was said that about that time the Clyde was infested with porpoises, which reduced the value of the fishings, and discouraged persons from offering for them, though the magistrates had exposed them to public roup at the reduced rent, first of £150 and then of £120, without success. It was for this reason, according to the evidence of the late town clerk, that the magistrates were induced to let the fishings in 1822 for three years to Auchinvole, at a rent of £105, being just one-half of the rent paid by his predecessor. From the accounts, Auchinvole's rent appears to have been increased in 1824-5 to £140; in 1825-6, to £150; and in 1826-7, to £170, at which sum it continued during the remainder of his possession, without any attempt being made by the magistrates to obtain a higher rent from him, or to ascertain what the fishings were really worth by allowing a public competition. It appears, however, that the burgesses were not satisfied that the fishings were let at their full value, and the town clerk admits that a letter was written to the council in the beginning of 1832 requiring the magistrates to let them by public roup, and representing, that if so let, a higher rent would be obtained. No notice is taken of this remonstrance of the burgesses in the council minutes, nor was any

See ALIENATION, supra.

Declaration of R. Colquhoun, p. 6.

Declaration of R. Grieve, p. 17.

attention paid to it, which the town clerk endeavours to explain by saying that the fishing season was just on the point of commencing, and that the magistrates, when they received the letter, had met for the purpose of letting them. Auchinvole received therefore a lease of the fishings for another year at the old rent. The town clerk states that Auchinvole was at this time grudging the rent, and that he, the town clerk, expected it would be reduced, though he does not state any ground for this expectation. Last year the fishings were let by public roup, and were taken in lease for five years, the Leven fishings at a rent of £270, and the Clyde fishings at £115. For both these stations, Auchinvole had been paying a rent for the five preceding years of £170, which it is said he grudged; yet he was a bidder for the Leven fishings, and the next highest bidder to the present tenants.

Complaint as to Reduction of Rent of Inn.

Another matter of Complaint regarded a late transaction, by which it was said that the magistrates had discharged a large portion of the Rent contracted to be paid by the tenant of the town's Inn without any just reason or necessity.

Council Record.

It appears that the inn was let by auction in 1830, and taken at a rent of £182 sterling by the former tenant, who had occupied the house for a great many years; and that on 29th November 1831, the magistrates by a Minute of Council agreed to reduce the rents of the past and current year to £100. This minute recites, that previous to the tenant's reentry, it had been unanimously agreed by the council that the rent should be fixed at £100 per annum for the first three years, "and that the council had come to this resolution, among other reasons, partly on account of the time which had elapsed of the first year before she obtained full possession, partly on account of the great loss and inconvenience which she would sustain while the premises were undergoing the repairs which the council had agreed to make thereon, and partly in consequence of one-third of the stabling having been given up by her to the town."

Articles of Roup. Council Record.

Upon this minute it may be observed, First, That there exists no other written evidence of the resolution of council recited in it, the previous minutes being silent upon the subject; Secondly, That both the Articles of Roup and Minutes of Council negative the reasons assigned for reducing the rent, as the third of the stables is reserved from the set, and it is also declared that the tenant shall not be entitled to deduction of rent on account of lapse of time in obtaining possession;—and lastly, that the repairs were agreed to be made for the benefit of the tenant. It may be remarked besides, that the inn had been previously let to this favoured person and her husband for a series of years, at a rent of £200 a-year, which was regularly paid, and that the present tenant has taken a lease of it for nine years, at £210.

Complaints as to Repairs on Inn.

Connected with this Inn, another charge was made against the magistrates. It was said, "That in the present year a committee of council was appointed to superintend certain Repairs on the Inn, consisting almost wholly of the very persons who were employed in executing the work, or in furnishing the materials, and who passed their own accounts, and instead of getting the materials required in large quantities, they bought them in small quantities, particularly lime in barrowfuls, instead of chalders, and nails by the hundred instead of by the thousand, and the repairs made were much greater than necessity required, and caused consequently a larger charge to be made against the town, and the greater profit to those engaged in the work."

Minute of Meeting with Burgesses, p. 10.

Declaration of R. Grieve, p. 36.

1833.

p. 54.

p. 55.

On investigation, these averments were found to be true. The town clerk, on his examination, states that very extensive repairs and improvements have been effected upon the inn and premises during the present year, and a large portion of the stables has been rebuilt; and he adds that there was no contract for executing these repairs, which he says cost from £600 to £700, but he referred to a minute of council dated 30th April last, appointing a committee for superintending the repairs, consisting of the dean of guild, the master of works, the provost and one of the bailies. The accounts for these repairs were called for, and they appeared to have been all approved of by the council and passed for payment; and the town clerk states that three of the persons who had rendered accounts which had been so passed are members of council, two of them being the dean of guild and master of works, who it has been seen were named members of the committee to superintend the repairs. And being interrogated respecting the mode in which the accounts were passed, he declared, "That the way in which these accounts were passed by the town council was, that they were first handed to the master of works to examine, that he might state objections if he had any, and in order that he might make an abstract of each, showing what part had been for one piece of work, and what for another, and the accounts were then read over in council, and approved of. Interrogated, whether the master of works had any mode of checking accounts composed of such small entries as half-hundreds of nails, half-dozens of screws, two panes of glass? declares, That he does not know any thing about it. Interrogated, whether the master of works stated any objections to the accounts for the repairs of the inn, before they were approved of by the provost? declares, That he did not, so far as he knows."

Charge of Vitiation of Table of Customs.

Minute, p. 8.

The next charge is, that a fraudulent alteration was some years ago made on the Table of the burgh's Customs, to serve the interests of the chief magistrate. The committee of burgesses stated, that formerly dues were paid on all coals *imported* into the town, but that this was subsequently changed to all coals *sold* there; by which means the great manufactory, which imported the largest quantity of coals into the burgh, and of which the leaders in the council were the chief shareholders, and latterly the sole proprietors, entirely escaped the payment of any dues on their coals. On referring to the printed table of customs in their possession, the Commissioners perceived that the words "for sale" had been added in manuscript to the original printed entry imposing a duty on coals imported. The former town clerk underwent an examination on this matter, which is particularly worthy of notice, and contains ample materials for forming a judgment upon the matter. His examination is as follows: "Being

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Declaration of R. Colquhoun, p. 1, et seq.

shown a printed board or table of the anchorage harbour dues and petty customs belonging to the burgh of Dumbarton, dated 1st May 1819, and stated to be extracted from the council book of the burgh by him, the declarant, which board or table is stitched up with the papers returned in virtue of an order of the House of Commons in the month of February 1833; and being asked by whom the words "for sale," written at the end of each of the two last articles of the said board, were inserted, declares, that he believes it to have been done by Mr. Rankine, now deceased, who was clerk and manager of the glass-work company of Dumbarton and a member of the town council. That the said glass-work company was the property of the Messrs. Dixon, several of whom have been provosts and members of the council for many years back, and one of whom, Mr. John Dixon, was provost in the month of May 1819. Interrogated, whether he knows by what authority Mr. Rankine made the alterations in question upon the board or table? declares, That he cannot say, but is rather inclined to think, that he brought it along with him to the roup, and that he said that this was to be the terms of the collection in future; and being referred to the principal minutes of council of 3rd May 1819, where the table is engrossed, observes that the words "for sale" are not annexed to the said two articles; and also observes, that in the said minute of council it is declared that the report of the dues to be collected was approven of, and that the meeting authorized two articles to be inserted therein as the third and fourth, each of them being relative to steam boats only; and that authority 'is hereby given to exact and uplift, in terms of the table, with the above addition;' and that the only exception made is, saving and reserving, however, during the pleasure of the magistrates and council, such boats as come to the quay of this burgh with fresh fish for sale by retail allenarly. And the minutes of council of 2nd May 1820 having been pointed out to him, declares, that he observes that the customs were again let for one year to the 1st of May 1821, and that the said minute contains no reservation or distinction between coals imported for sale and coals imported for private consumption, and that he believes that there is no minute in the council books subsequent to the publication of the table in 1819 making or authorizing any distinction between them, at least he does not recollect of any such at present. And being referred to the minutes of council of 2nd May 1806 years, observes an entry therein commencing—'Here follows the old table with the additions and explanations made thereto on 29th April 1778 years,' and observes, that the said table contains no specification with regard to coals imported for sale; and being shown the minutes of 1st May 1807, observes, that the customs were let in that year with the anchorage dues or additions to and alterations made upon the board, as made by the magistrates and council and recorded last year; and that the only exceptions contained in the said minute of set respect the duties on flour, the charge for herrings passing through the town on carts, although offered for sale, and an obligation on the tacksman to provide a shore or harbour master. As also, observes from the minutes of 2nd May 1808, 1st May 1809, 1st May 1810, 1st May 1811, and 1st May 1812, that no exception is made with regard to coals, and he does not believe there is any such entry at any of the annual settings. Interrogated, declares that he cannot tell for what reason the exception here spoken of was made, nor by what authority it was done; that very few private individuals import coals on their own account, and that the glass-work company is the chief importer in that way."

Immunity from Payment of Burgh Multures.

The last subject of complaint which the Commissioners deem it necessary to mention is, that the magistrates allowed the Dumbarton brewery company (of which two members of council were the partners) to refuse payment to the burgh's tacksman of certain dues on malt used in the brewery, without taking any steps to enforce the burgh's rights; and in consequence the tacksman has retained a sum out of his rent to meet the loss suffered by him from the company's resistance; which retained sum appears in the accounts of the town as an arrear due to it.

Declaration of R. Grieve, p. 23.

From the town clerk's examination, it will be seen that the brewery company first disputed their liability to pay the dues claimed in 1827, after having paid them regularly for years, and that the town council have done nothing to bring the dispute to an issue. Whatever explanation might be given for thus declining to vindicate the rights of the burgh, (and the excuse attempted to be made by the town clerk does not appear at all satisfactory,) it is impossible not to remark that the partners of this company thus allowed to resist the town's tacksman were themselves the sworn guardians of the town's rights, and were at that very time filling the two highest offices in the magistracy.

TAXATION.
Cess.

The Cess laid on the burgh and paid to Government is £15 12*s*. The amount assessed under the authority of the magistrates for each of the last ten years has been £23 1*s*. 7*d*. The assessment is laid upon property and paid by the proprietors. It is said that the whole sum assessed is not made effectual by the collector, and that the arrears are considerable.

Water of Leven Customs.

The burgh is entitled to draw a Custom on cattle crossing the Water of Leven. This is levied conform to use and wont. A table of the customs accompanies this Report.

Petty Customs. Market Dues. Anchorage and Harbour Dues.

Under the authority of their charters, the burgh draws Custom Dues on meal and grain and various commodities imported into the town, and also Market Dues on the sale of various articles. The town also draws Anchorage and Harbour Dues from vessels frequenting the port. A table of these customs and dues accompanies this Report.

With the exception of the harbour dues, the table referred to appears to have been fixed as it now stands on 29th April 1778, when certain additions and explanations were made upon the table previously in observance. The harbour dues, with the exception of those imposed upon steam boats, were fixed at their present amount by a minute of council in the year 1806.

New Duty imposed by Magistrates on Steam Boats.

In 1819, the Magistrates imposed an increased Duty upon Steam Boats according to their tonnage. The harbour dues as fixed in 1806 have been paid by all frequenting the port

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without dispute. And the new duties on steam boats were paid by the owners from 1819 to 1826, but since that year the steam boat proprietors have Refused to Pay the new duty imposed in 1819, and denied the right of the burgh to exact it. Refusal to Pay.

The town council asserts its power in virtue of its charter, and from usage, to increase or vary the amount of the harbour dues. And confiding, it seems, in this supposed power, it has kept up its claim against the steam boat companies by causing an account to be kept of the number of trips made by the boats each year, and stating the dues claimed according to this account as arrears due to the burgh. These arrears are stated in the last year's accounts as amounting to £683 2*s*. 2*d*., and, along with a balance of rent of £283 retained by a former tacksman of the harbour dues, as the loss suffered by him from the refusal of the steam boats to pay the new dues, are brought out as part of the debts due to the burgh in the account of its property. Disputed Dues included in Assets of Burgh.

It appears that the magistrates raised an Action before the Sheriff Court to enforce payment of the steam boat dues; but it was dismissed on a point of form; and after taking the opinion of council, who did not encourage the burgh to try the question in a higher court, it was resolved to apply for the authority of Parliament to impose the dues. In 1829, the magistrates made an attempt to bring in a Bill for this among other purposes; but the other objects of it were so obnoxious to the inhabitants, that they were forced to abandon it altogether. Action before Sheriff. Bill brought into Parliament withdrawn.

The Boundaries of the royalty are extensive. In a communication to the Parliamentary Boundary Commissioners, the provost stated that the River Leven terminates the royalty on the west and the River Clyde on the south, and the boundaries extend eastward one mile beyond the town and one mile and a half in a north-west direction; and betwixt these two points northwards there is an extensive muir, exceeding five miles, which is within the royalty. The parliamentary boundary is different, excluding the muir, and although on the eastern boundary it does not vary materially from the royalty boundary, on the west it includes a large portion of ground on the opposite side of the River Leven, on which there is a village, which is separated from the town only by the bridge. As there are no local taxes in Dumbarton, and the interest of this suburban village is identical with that of the town, there is no obstacle to extending the royalty to the parliamentary boundary except the existence of exclusive privileges in the corporations of the town; but any such extension must be made under the condition that inhabitancy in this village shall not give the same privilege of exemption from river dues in Clyde as inhabitancy within the present royalty. This condition would be insisted upon by the river trustees, and was the cause of their opposition to a Bill promoted by the magistrates of Dumbarton in 1829 for, among other purposes, extending the royalty over this village, which, after being introduced into Parliament, was withdrawn on account of the opposition it encountered from various interests. Boundaries.

The magistrates exercise the usual civil and criminal Jurisdiction belonging to royal burghs. The town clerk acts as their assessor. Two burgh courts are held weekly. The average number of cases brought into court since 1820 is as follows:— Jurisdiction.

Number of actions for debt	15
Number of applications for aliment	4
Criminal cases	6
Actions of performance	1
Brieves	2

The magistrates take cognizance of certain trifling cases on verbal complaint and a verbal summons by a town officer. No record is kept of the sentences in these cases, which never exceed a fine of 5*s*. or an order for restitution of some article of property; and on failure, 48 hours, imprisonment. Complaints of this description are familiarly known in the burgh by the name of "causeway complaints," and may average six or eight in the year.

There is a dean of guild court in the burgh, consisting of the dean of guild and council. It exercises the jurisdiction usually belonging to the same court in other burghs, in lining marches, judging of the sufficiency of buildings, and checking weights and measures, and imposing fines when found deficient.

The magistrates and council appoint to the following offices, viz.: town-clerk, collector of town's revenues, collector of assessed taxes, master of public works, gaoler, town-officer, and town-drummer. The magistrates alone appoint the burgh fiscal. Patronage. Civil.

No price or consideration is paid for any of these appointments.

The Town Clerk, by the terms of his commission, holds his appointment for life. All the rest hold during the pleasure of the council. Town Clerk.

None of these offices is performed by deputy; but the town clerk has occasionally named another to act for him as deputy in case of necessary absence.

The gaoler is the only officer who finds security for performance of his duties.

The collector of town's revenues has a Salary of £12; master of works, £5 5*s*.; gaoler, £30; town-officer, £25; drummer, £3; the collector of assessed taxes is paid by the usual poundage on his collection; the burgh fiscal derives his emoluments from the criminal prosecutions he conducts; these being few in number, his office is of very trifling value. Salaries.

The town clerk has a salary of 12*s*. from the burgh, and he charges as an agent for any business he does for the town. Last year his account was £21 14*s*. 7*d*. His chief emoluments are derived from the fees he receives in virtue of his office, and which he states may average £90 a year.

The Commissioners found a strong feeling existing in the burgh upon the subject of a Recent Appointment of Town Clerk. The Complaint made was, that the town-council, which then held office only until the new magistracy should be chosen under the Act of last session, Complaint of Burgesses regarding Recent Appointment of Town Clerk.

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Minute of Meeting with Burgesses.

had improperly anticipated the patronage of the new council, by choosing a new clerk at Michaelmas, when they themselves must have gone out of office, had not their magistracy been prolonged till November by the above Act. It appears that the late town clerk, a gentleman in advanced years, then resigned his office, and his successor is a gentleman who has been connected with him in business. The inhabitants complained particularly that the late magistrates should have made the appointment for life, and they stated that a public meeting of the burgesses had been held, condemning the precipitancy of filling up the office for life, and remonstrating against the appointment except as a temporary one. Nevertheless the council made the appointment. The magistrates and council explained that the appointment had been long contemplated whenever the late clerk should resign. But the Commissioners must observe that the resignation seems to have been hastened by the prospect of the late town-council and its friends being soon removed from power; for the favoured person's appointment was so hurriedly made, that he had not time to enter notary-public, an indispensable qualification to enable him to perform the duties of the office of town clerk; and in consequence he was reduced to the necessity of appointing his predecessor to be his deputy.

Declarations of R. Grieve, p. 43, et seq., and A. Dixon, p. 4.

Declaration of R. Grieve, p. 44.

Ecclesiastical.

The magistrates and council are patrons of the Parish of Dumbarton. The charge is single. The stipend amounts to £242, paid out of the teinds of the parish, of which the burgh's proportion is £25 0*s*. 5*d*., and £5 for communion elements for each summer sacrament.

School.

There is a School under the patronage of the magistrates, superintended by two teachers. The teacher of writing and arithmetic is removable on six months' notice. The other teacher, who, it is said, may be considered as parish-schoolmaster, holds his situation for an indefinite period. The school-house is the property of the town, and is given to the teachers rent free.

The amount of salary paid to each teacher out of the funds of the burgh is at present £10. This arrangement is recent, and the salaries are less than formerly on account of an annuity of £36 drawn by a retired teacher. When this annuity ceases, it is provided that the salary to the writing-master shall be increased to £16, and that of the other teacher to £20.

The school-fees and hours of attendance are regulated by the magistrates.

The branches of education taught are English, Latin, Greek, French, writing, arithmetic, geography, the elements of mathematics, navigation, land-surveying, and drawing.

The present school-fees have not been returned, but they are stated to be reasonable.

Mortified Fund.

There is a Mortified Fund under the joint management of the town-council and kirk-session, from which there is an annual allowance of £10 for the purposes of education. This sum is devoted to assist in paying the salaries of the teachers in the town-school.

Exclusive Privilege.

The qualification of being burgess and guild-brother is necessary to entitle a person to manufacture and trade within the bounds of the burgh. When one is admitted a burgess in Dumbarton, he is at the same time created a guild-brother. The fees of entering burgess are, to the eldest son of a burgess, 8*s*. 4*d*., and to all others, £1 1*s*.; besides, in each case, a fee of 5*s*. to the town-clerk, and 1*s*. to the town-officer. The present number of burgesses, so far as can be ascertained, is 407, of whom 287 are resident, and 120 non-resident.

Corporations.

There are six Corporations, viz.: the guildry, and the crafts of hammermen, shoemakers, tailors, coopers, and weavers.

Guildry.

The Guildry incorporation possess the exclusive privilege of buying and selling all commodities, either by weight or measure, within burgh. The entry money is 5*s*. for the eldest son of a burgess or guild-brother, and 12*s*. 6*d*. for all others, besides 3*s*. 6*d*. to the clerk, and 1*s*. to the officer. The funds of the corporation at present amount to £35; the number of the guildry is supposed to be about 200. The guild-brethren have never met as a body for at least 40 years, though it appears that about the middle of last century a guildry head-court was held, and absentees fined. The funds contributed by the brethren have hitherto been under the control of the dean of guild elected by the town-council, along with the guildry court named by him. Part of their funds were in 1820 lent by the authority of this court to the dean of guild, who afterwards failed, and a loss was suffered in consequence.

Hammermen.

The incorporation of Hammermen includes wrights, smiths, masons, slaters, and saddlers; and they possess the exclusive privilege of carrying on their respective trades within burgh. The entry-money varies from 1*s*. 8*d*. to £1 2*s*. 2*d*., according to the privilege of the intrant, besides which 10*s*. is paid for a treat to the corporation, and 1*s*. to the clerk, and 6*d*. to the officer. The annual payment for each member is 2*s*. The number of members is about 120, but nearly one-half of them are non-resident. The incorporation has an heritable property producing a rent of £25 10*s*. per annum, and it draws a feu duty of £1 18*s*. It has also £80 lent on bill. The funds of the incorporation are applied, after paying the expenses of their meetings, to the relief of decayed members, and widows and children of deceased members. The incorporation insists upon and maintains its exclusive privileges.

Tailors.

The incorporation of Tailors enjoy the exclusive right of exercising their trade within the burgh. The fees of admission vary from 6*s*. 8*d*. to £1 2*s*. 8*d*. sterling, according to the character of the intrant, and each member pays 8*d*. annually to the funds. The incorporation consists of 14 members. The funds are £160, lent out at interest, and their income is applied exclusively to the benefit of decayed members and widows. They insist on their exclusive privileges, and recently opposed, successfully, an infringement.

Shoemakers.

The incorporation of Shoemakers possess the exclusive privilege of exercising their trade within the burgh. The fees of entry vary from 1*s*. 8*d*. to £1 2*s*. 2 *d*., according to the character of the intrant, with a payment of 7*s*. 6*d*. for a treat to the incorporation, and 1*s*. to the clerk and 1*s*. to the officer. There is an annual payment by each member of 2*s*. to the

funds. The present number of members is about 43. The funds of the corporation amount to about £300 lent upon heritable security, and its income, after paying the ordinary expenses of the meetings, is applied to the relief of widows and decayed members.

Coopers.

The incorporation of Coopers have the exclusive right of exercising the trade of a cooper within the burgh. The fees of admission run from 1*s.* 8*d.* to £1 2*s.* 2*d.* The members pay 8*d.* yearly. The number of members of the corporation is 14. The funds are £200 lent out on bill. The income is exclusively applied to the benefit of widows and decayed members. There is only one person at present receiving assistance.

Weavers.

The incorporation of Weavers has the exclusive privilege of weaving woollen yarn within burgh. The fees of admission and annual payment are the same as in the cooper corporation. The number of members is at present 27. There has been no entry into the corporation since 1818. The clerk of the incorporation states, that he believes there is not more than one member presently exercising the calling within burgh. The funds amount to about £340, and their income is applied exclusively to the relief of widows and decayed members.

Licences to Trade.

The incorporations of hammermen and shoemakers have, on some occasions, granted temporary Licences to unfreemen, upon paying a sum of money nearly equal to the amount of what would have been paid for admission into these corporations. But the guildry and other incorporations have never followed this practice.

The magistrates occasionally grant temporary licences to females to traffic within burgh on payment of a fine, generally £1 1*s.*

Tradesmen beyond boundary of Burgh.

There are persons settled beyond the limits of the burgh, but within the parliamentary boundary, exercising the same callings with these possessing exclusive privileges within burgh, but no return has been made of their precise number.

Letters of Deaconry.

The guildry incorporation possesses no charter, but the crafts have Letters of Deaconry granted by the magistrates and council, conferring power upon them to make bye-laws and regulations for the government and welfare of their craft, the same being always found reasonable, and authorized by the magistrates and town council, before taking effect.

Rights of Burgesses to Pasturage.

Besides the privileges belonging to the Burgesses of Dumbarton, in navigating the Clyde, as already mentioned, they have Right under their charter from James VI. to the lands now called the Town's Common or Broad Meadow. The meadow is accordingly Pastured by the burgesses, each paying a trifling sum for each head of cattle, varying according to the number of cattle pasturing during the season, but which seldom exceeds 3*s.* 6*d.* for each cow, and 6*s.* for each horse. The sum thus raised is appropriated to payment of the person employed to herd the cattle, and a part of it, amounting to £3 6*s.* 8*d.*, is paid into the common good of the burgh each year.

Appointment of Magistrates and Town Council.

The sett of the burgh was recorded in the books of the convention of royal burghs in 1709. It is as follows:—The burgh consists of merchants and tradesmen; the trades are five, to wit, hammermen, tailors, cordiners, coopers, and weavers: the common council is made up of the provost, two bailies, dean of guild and treasurer, with ten other councillors, which are in all fifteen, whereof ten are merchants and five are tradesmen, the provost, two bailies, and dean of guild being always merchants. The manner of election is as follows:—The old council doth choose the new, the old provost, two bailies, dean of guild and treasurer, being by virtue of their offices continued councillors for the year ensuing; and the other ten are elected one by one in the ordinary form; which new council being so chosen, they, with the haill deacons of trades, proceeded to the leeting and electing, first the provost, then the eldest bailie, the youngest bailie, the dean of guild, the treasurer, the master of works, clerk, quarter-master, and remanent officers of the burgh, and which new treasurer, if he be not a member of the new council, is supernumerary of the fifteen. The guild council consists of six members, besides the dean of guild, who are chosen yearly by himself, and received by the town council, before whom they make faith *de fideli;* and whereof some are merchants and some are tradesmen.

Present Constitution.

This sett continued till it was superseded by the late Act 3 and 4 William IV., cap. 76. The number of the council, being 15 under its sett, is the same under this Act; and the council consists of a provost, two bailies, a treasurer, and eleven councillors.

Number of £10 and £5 Proprietors or Tenants.

The Number of persons resident within the proper bounds of the burgh whose rents in Property or Tenantry amount to £10 per annum and upwards is reported to be 165;

Of whom are burgesses	143	
Not	22	
		165

The number of such persons whose rents in property or tenantry amount to £5 per annum or upwards, but do not amount to £10, is reported to be 151

Of whom are burgesses	23	
Not	128	
		151

The number of persons resident beyond the proper bounds of the burgh, but within the parliamentary boundaries, whose rents in property or tenantry amount to £10 per annum and upwards, is said to be 14.

The number of such persons whose rents in property or tenantry amount to £5 per annum and upwards, but do not amount to £10, is said to be 30.

The numbers are, perhaps, not quite correct, but the errors are believed to be trifling.

Police.

There is no distinct Police establishment in the town. It is not watched during the night.

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Cleaning and Lighting.

Paving.

Act 10 Geo. IV., c. 71.

The Cleaning and Lighting of the streets, and supplying water, are under the direction of the magistrates. The annual expenditure is inconsiderable, and is paid out of the burgh funds.

The Paving of the streets is paid out of the statute-labour assessment, which is levied under the authority of a statute passed 22nd of May 1829, for regulating the statute-labour, and repairing the highways, &c., in the county of Dumbarton. By this Act, the provost and one bailie are named trustees, and the town is constituted a separate district. The statute-labour and conversion money is applied exclusively to the repair of the streets, &c., within the town. The collector of the assessment is appointed by the magistrates. The rate of assessment is 2*s.* 6*d.* for each male person, and 6*s.* for each horse. The magistrates exempt persons who are in extreme poverty. The annual average amount of the assessment is £35.

Documents.

The following Documents accompany this Report:—

1. Answers by Town Clerk to Heads of Inquiry issued by the Commissioners, 22d October, 1833.
2. Copy Instrument of Sasine in favour of the Burgh, dated 10th February, 1610, proceeding upon a Charter of James VI.
3. Copy Sett of the Burgh.
4. State of the Affairs of the Burgh, from 28th September, 1832, to 14th October, 1833.
5. Table of Customs for Cattle crossing the Water of Leven.
6. Table of Anchorage and Harbour Dues, and Petty Customs, 1st May, 1819.
7. Minute of Meeting with Committee of Inhabitants, 24th and 25th October, 1833.
8. Declaration of Robert Grieve, Town Clerk, 24th, 26th, and 28th October, 1833.
9. Declaration of Robert Colquhoun, late Town Clerk, 28th October, 1833.
10. Declaration of Archibald Robertson, weaver, 28th October, 1833.
11. Statement and Amount of Debts, &c., of the Burgh, as at 15th May, 1819.
12. Excerpts from Minutes of Council, 1st and 11th November, 1811.
13. Excerpt from ditto 12th March, 1821.
14. Excerpt from ditto 15th April, 1829.
15. Excerpt from ditto 18th May and 22d June, 1832.
16. Copy Articles of Roup as to Inn, 22d May, 1830.
17. Excerpts from Minutes regarding Rent of Inn.
18. Printed Copy Refutation of Case, circulated by the Clyde River Trustees.
19. Case of Burgh and Burgesses in opposition, 1830.
20. Printed Copy Proceedings of Deputation of Magistrates, Town Council, and Burgesses, to oppose in Parliament the Glasgow Royalty Extension and Clyde Navigation Bills, &c., 1830.
21. Declaration by Anthony Dixon, Esq., Provost, 28th October, 1833.
22. Declaration by John Paterson, Clerk to Guildry and Hammermen Incorporations.
23. Report by the Guildry Incorporation.
24. Report by the Hammermen Incorporation.
25. Answers to Queries by the Tailor Incorporation.
26. Report by the Shoemaker Incorporation.
27. Answers by the Cooper Incorporation.
28. Report by the Clerk of the Weaver Incorporation.

RO. BELL.
R. HANDYSIDE.

REPORT

ON

THE BURGH OF DUMFRIES,

(DUMFRIESSHIRE,)

AND ON

THE TOWN OF MAXWELTON,

(STEWARTRY OF KIRKCUDBRIGHT.)

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I.

DUMFRIES.

HISTORY AND CHARTERS.

THE precise date of the erection of Dumfries into a royal burgh is not well ascertained, but it is said to have been erected in the reign of William the Lion, prior to 1214. During the thirteenth century its importance greatly increased, and the bridge over the Nith, a very extensive work at that time, was then built. After this period it became a place of great consequence during the successive border wars, and the strength of its fortress evidently rendered it of much importance in the ancient state of the country. In 1396, the burgh obtained several valuable immunities from Robert III. In 1415, James II. granted it a charter, confirming its estates and privileges. And, in 1469, the burgh obtained a grant from the Crown, of all the possessions and revenues which had belonged to the Greyfriars.

BOUNDARIES.

The old Royalty is situated on the left bank of the Nith, which forms the Boundary of the county, and separates it from another populous community in the burgh of barony of Maxwelton, within the stewartry of Kirkcudbright. Maxwelton may now be considered a suburb or continuation of the town of Dumfries on the opposite side of the river. It was erected into a burgh of barony in 1810.

The Parliamentary bounds of Dumfries, under the Reform Act, embrace the whole of the old Royalty, with the exception of some lands to the south and east of the town, and they include Maxwelton and its suburbs on the west side of the river.

SETT.

There has been no change in the Sett of the burgh for nearly a century. The number of the council was reported to the convention of royal burghs in 1709 to be 25, and the same number still continues. These consist of the provost, three bailies, 14 merchant councillors, including a dean of guild and treasurer, and seven deacons of the incorporated trades. At that period certain regulations enacted by Acts of the council were in force, providing, *inter alia*, that any innkeeper elected provost should retire from trade within 15 days, and declaring that no one *shall* retain his civic honours more than two years. At present these regulations appear to be in desuetude, as it appears that, for the two years prior to 1832, the provost of the town was an innkeeper.

CONSTITUENCY.

The combined Parliamentary Constituency of Dumfries and Maxwelton consists of 621 electors.

ALIENATIONS.

A large part of the heritable property formerly belonging to the town has been sold during the present century. The debts with which the town was burdened, as well as the extensive improvements which have been carried into effect during that period, are assigned as the cause of these sales. All of these alienations are stated to have been made by *public roup for full value*, and no undue preference appears to have been shown to existing councillors. The prices of the property, thus disposed of, amounted to £15,305 1*s.* 7*d.*

PRESENT PROPERTY.

The present Property of the town consists principally of mills and granaries, which, in the year ending 15th October 1833, yielded a rental of £357 19*s.* 8*d.* sterling. The burgh is also possessed of some shops and houses in the suburbs, with small portions of land attached to them, which yielded a rental last year of £179 10*s.*; and it has feu duties, which yield annually £114 4*s.* 5*d.* This was stated to comprehend the whole of the real property of the burgh, with the exception of a sum of £1,125 9*s.* 9*d.* of arrears, which have accumulated since 1815, and a great part of which is represented as desperate.

REVENUE.

ORDINARY REVENUE.

The Revenue of the burgh for the year ending 15th October 1833 stood as under:

	£	*s.*	*d.*
1. Feu duties	114	4	5
2. Rents of Lands	179	10	0
3. Rents of mills and granaries	357	19	8
4. Customs	589	17	10
5. Teinds	81	1	6
6. Impost on ale	66	15	0
7. Rents of church seats	236	18	8
8. Burgess composition	24	4	0
	£1,650	11	1

CASUAL REVENUE.

Miscellaneous articles	0	16	0
	£1,651	7	1

DUMFRIES.

EXPENDITURE.

The Expenditure of the Burgh for the year from 1832 to 1833 stood thus:—

ORDINARY EXPENDITURE.

	£.	s.	d.
1. Interest on debts	276	8	0
2. Repairs on public buildings, &c.	310	3	10
3. Public burdens	69	1	3
4. Entertainments	45	7	6
5. Salaries	440	13	5
6. Miscellaneous articles	50	14	1

CASUAL EXPENDITURE.

1. Miscellaneous articles, (subscription and advances on occasion of cholera, and aliment of prisoners)	386	16	8
2. Law expenses (partly to account of old balances)	164	6	3
	£1,743	11	0
During this year the magistrates paid off debts to the extent of	800	0	0
And contracted debts to the extent of	525	14	1
Difference	274	5	11

DEBTS.

The Debts due by the burgh were thus set forth in the printed statement made up at 15th October 1833, in terms of the Burgh Reform Act:—

1. Mortification by Dr. Hunter, on December 29, 1729, for the poor of Dumfries, secured irredeemably over mills		£400	0	0
2. Mortification by John Allan, on 3d May 1828, to the hospital		100	0	0
3. Ditto by ditto, to the weavers		100	0	0
4. Bond to Corrie's Trustees on January 2, 1829		600	0	0
5. Bond to the hospital, dated 26th June 1829		420	0	0
6. Bond to William M'Kie, manufacturer, Dumfries, dated 24th January 1831	£4,500			
Whereof since paid	3,500			
		1,000	0	0
7. Mortification by Mrs. Gibson, Edinburgh, for annual sermon against cruelty to animals		100	0	0
8. Bonds by magistrates for behoof of hospital and teachers		4,169	16	10
9. Bond to the hospital		35	17	3
10. Mortification by James Paterson, for behoof of two poor stocking-makers		20	0	0
		£6,945	14	1

Abuses in Administration.

In addition to the preceding debts, it has since been represented to the Commissioners that there was a considerable sum due by the burgh *on open accounts*, the amount of which could not be specified when they visited Dumfries, as the accounts had not then been given in. The provost lately elected by the new constituency, having been called before the Commissioners, stated (8th February 1834) that there was very nearly £2,000 of additional debt due *on open account*, of which a considerable sum was due to *members of the late council;* and, before going out of office, they borrowed £1,000 on heritable security, with which they paid their own claims, leaving about £1,000 still due.

The proceedings of the late council in contracting debt and raising money in the manner now detailed, for the purpose of paying their own claims, has suggested to the Commissioners the propriety of considering how far the town council should ever be allowed to give employment to, and thus to create debts in favour of, members of their own body. The present provost, on being lately examined, declares, "that on almost all occasions, when the council had any work in which it was necessary to employ tradesmen and others, it has been the custom to give this employment to members of their own body; and this, as the declarant believes, generally *without either estimate or competition.*" The impropriety of such conduct in the administrators of public funds and property is glaring.

There is another abuse in the administration of the common good of this burgh, which deserves particular remark. The attention of the Commissioners was directed to a statement in a newspaper of great circulation at Dumfries, that most of the branches of the common good were let in October 1833 *to members of council*, or parties connected with them, by public roup, and the Commissioners thought it their duty to examine the present provost on this matter. Accordingly, he stated, that it "consists with his knowledge, that for many years past *members of council, or their near connexions, have been the tacksmen of many branches of the common good*, though he also believes that they became so by being bidders at the public roups, at which the different items of common good were exposed to sale."

The Commissioners are inclined to think that this is a very prejudicial practice for the interests of the community. It may often happen that members of council have information as to the common good not possessed by the public; and, at any rate, if they are allowed to

acquire, in lease, considerable portions of the revenue of the burgh, many of the evil consequences supposed to arise from the practice of agents or factors bidding for their constituents' property, apply equally to members of council bidding for the property of the burgh.

Besides, when councillors are tacksmen of any part of the common good, circumstances sometimes arise in the course of the lease to disqualify them from acting fairly, or at least without suspicion, in both characters. And an instance of this lately occurred in this town. It was given in evidence that the late provost of Dumfries, while himself a member of council, had become joint tacksman, along with another person, then dean of guild, of the impost dues on ale and beer brewed and vended within the town, and which dues were levied under the authority of an Act of Parliament now expired. Both the provost and his partner had granted a bill to the town chamberlain for the rent, about £131. But the provost's partner having died insolvent, his estate yielded a dividend of 10*s.* per pound, while there had been paid to account of the rent a portion somewhat exceeding what such a dividend would have amounted to on the whole year's rent. Nevertheless, the late provost, at a meeting of council held in September or October 1833, when the annual accounts of the burgh were about to be made up, brought the matter before the council, and, keeping out of view the circumstances of his own liability, and representing that the tacksman's estate had yielded no more than 10*s.* per pound, he prevailed on the council not only to discharge the sum remaining in arrear, but to *refund £17 of what had been paid.* Soon afterwards, this circumstance having transpired, in consequence of the representatives of the deceased tacksman taking great offence at the provost's conduct, the matter was again brought before the council, and the provost, (who, in a letter in one of the said newspapers, had previously denied that he had any connexion with the lease, except as cautioner upon the bill,) upon a vote of the council appointing a committee of investigation, proposed to put an end to the matter by paying up the whole balance due. And this sum was accordingly paid by him to the town Chamberlain.

Such a transaction as this sufficiently illustrates the inexpediency of councillors being allowed in any case to farm any parts of the common revenue of the town. The Commissioners afterwards applied to the late provost to know if he had any further explanation to offer on this subject, but they did not receive any answer.

TAXATION.

The burgh, from time immemorial, has possessed a right to levy Tolls and Customs for cattle and various descriptions of commodities, passing across the river Nith. At what time this right was first constituted is uncertain; but the burgh is in possession of documents, showing that this tax was levied in 1425. In 1681 (10th September) this right was confirmed by an Act of the Scottish Parliament; and it was then declared that the burgh should possess, in all time coming, a right to levy customs from "Portractford exclusive, downwards to the mouth of the water of Nith," for the purpose of upholding the bridge of Dumfries. The amount of the dues leviable is not defined under the Act, but they were fixed by a minute of Nov. 5. council in 1772. The burgh has also the right to levy sundry small customs within burgh, and these, together with the bridge-custom, in the year ending 15th October 1833, yielded £589 17*s.* 10*d.*

In the year 1717 the Burgh acquired a right to levy an impost upon ale vended within the town. This right has been renewed for limited periods by various Acts of Parliament, and latterly by an Act passed in the year 1811, which expired last year; and no application has been made for a renewal of it. The tax was two pennies Scots upon every Scotch pint of ale and beer brewed, bought, or sold within the town of Dumfries, and the purpose of it was, "for paying the public debts of the town, and for building a new church and maintaining ministers for the same, and making and repairing a harbour." During the five years, from 1827 to 1831, the produce of this tax varied from £30 to £145.

There are some other small market customs, to which the burgh has right by its charter. These are payable at the Trone and three ports of the burgh, and the amount of them is fixed by an act of council of 5th November 1772.

CESS.

The amount of Cess payable to Government is £117, and the collection and other incidental expenses amount to £42 16*s.* 3*d.* This sum is raised partly from a stent on the trade of the burgh, and partly on the valued rent of lands and houses within the burgal territory, the lands being subject to a rate upon *one-half* their annual value, and the houses to a rate on one-third of their annual value; the rate in each case being one per cent. There are eight stent-masters chosen annually by the council, four of them from their own number.

POOR.

There is no legal assessment for the Poor in Dumfries, but they are supported by voluntary contribution at the church doors. The poor of the burgh have also the benefit of a public hospital, and of several sums mortified for their behoof. The amount of these various mortifications is £4,207 14*s.* 1*d.* sterling, part of which, however, was bequeathed for the purpose of educating poor children. This fund is irredeemably secured over the common good of Dumfries, but a considerable portion of it was appropriated, with the concurrence of the Kirk Session, to the erection of an hospital in 1753. Eight of the directors of the hospital are chosen by the community, nine by the council, eight by the Kirk Session, and ten by the subscribers to the charity.

SCHOOLS.

In the year 1800 an Academy was built by subscription, and the magistrates were then appointed patrons. The funds of the academy were also vested in their hands in trust. There are five masters, each having a separate department. The fees are moderate, and the number of scholars attending it considerable. The master of the grammar school receives a salary of £64, of which £33 6*s.* 8*d.* is paid from the interest of the mortified money, and the remainder from the funds of the town.

DUMFRIES.

There is another school within burgh, the teacher of which is paid from money mortified for the purpose.

The above are, with the private schools, considered sufficient for the education of all classes of the community.

The magistrates have not the disposal of any bursaries or university patronage. But the late Dr. Crichton, of Friar's Carse, bequeathed upwards of £100,000 for charitable purposes, and it has been suggested by some that the fund might be advantageously employed in founding a university at Dumfries.

PATRONAGE.

The magistrates have no church Patronage. There are two churches within Dumfries, of which the Crown is the patron. In the new church the stipend is payable partly by the town. The minister receives £140 per annum from the funds of the burgh, and the magistrates derive £251 12*s.* from the rents of church seats.

The magistrates have the appointment of their own officers, with the following salaries:

	£.	*s.*
Chamberlain - - - -	30	0
Town Clerks - - - -	30	0
Gaoler - - - - -	25	0
Keeper of the Clocks - - -	8	8
Bellringers, at £6 6*s.* each - -	12	12
Burgh, Guild, and Council Officers	37	15

The magistrates also receive small sums to cover their individual expenditure while in office. The aggregate amount of these is £66 13*s.* 4*d.*

None of the officers of the town pay price for their situations.

The town clerks are appointed *ad vitam aut culpam.*

JURISDICTION.

The Jurisdiction of the Magistrates extends over the old Royalty. There is a Burgh Court for the determination of civil actions, and to take cognizance of petty offences. The town clerks act as assessors to the magistrates, both in their civil and criminal business; and generally the jurisdiction of the magistrates is exercised to the same extent as in the other royal burghs of Scotland.

There is no Dean of Guild Court held at Dumfries. When proprietors suffer their tenements to get into a state of disrepair, dangerous to passengers, or encroach upon the streets or closes, the procurator-fiscal brings a complaint against the parties; and there was one case of this nature in dependence at the period of our visitation.

STATE OF GAOL.

The Gaol of Dumfries, being the head gaol both for burgh and county, is by no means kept in the state in which it ought to be. The buildings are of considerable extent and of modern erection, but the apartments are not conveniently arranged for classification; and even as the rooms stand, there is not the classification that there might be. It occurred to the Commissioners that there should be some more active and vigilant control over the arrangements and discipline of the gaol than is at present exercised; and probably it would be expedient to direct periodical inspections by the sheriff.

EXCLUSIVE PRIVILEGES.

In this burgh there are both burgesses and incorporated trades possessing the usual Exclusive Privileges.

It would appear that, until 1833, the Magistrates and council here, as in other burghs, were in the habit of compelling merchants and tradesmen, settling within burgh, to enter as Burgesses. The fees for an intrant burgess were £10 for a stranger; but where the intrant's father or father-in-law were entered with the town, £1 1*s.* Upon the 12th of April 1833, the council unanimously came to the following resolution:—"That from and after the date of this act of council, *no person commencing within the burgh and its privileges, in any business, trade, or craft, shall be called upon to admit himself a burgess of this burgh;* and that every person whomsoever may carry on any business, trade, or craft, within the burgh and privileges thereof, hereafter, as freely and fully as any person may or can do who is now admitted a burgess; and that all persons who have been in any business, trade, or craft, and carrying on the same within the burgh or privileges, before the date of this Act, shall be liable in payment of the whole fees in use to be enacted before this date." The council farther resolved, that all persons claiming to be admitted burgesses hereafter, shall be liable, in payment of the usual fees, it being distinctly understood that no person shall have any right hereafter to demand admission as a burgess, without paying these fees."

The only exemption which burgesses appear to possess, is exemption from one-half of the customs leviable at the Bridge.

INCORPORATED TRADES.

There are seven Incorporated Trades in Dumfries, consisting of the following numbers, viz.:

Hammermen - - -	40
Squaremen - - -	90
Weavers - - - -	60
Tailors - - - -	No return.
Shoemakers - - -	60 to 70 resident.
Skinners - - - -	9
Fleshers - - - -	16

None of these trades have abandoned their privileges; but there have not, within the last few years, been any prosecutions against non-intrants.

Each of these Corporations possesses common funds. The hammermen, squaremen, and

tailors, have about £800 each; the shoemakers, £600; the skinners and weavers, about £300 each. The fleshers have lately divided their funds among them. These amounted to nearly £400; and this, divided among 16 members, gave about £25 to each.

The Commissioners examined the Convener and the Deacons of these Incorporated trades, and they found that they were *unanimous* in thinking that their exclusive privileges were of no benefit to the town; and there was considerable doubt as to whether they were of any advantage even to the craftsmen themselves.

The Privileges of these Incorporated trades can be evaded in the easiest manner, by tradesmen settling in Maxwelton; and a great many tradesmen, although entered with the corporations, carry on business there. The privileges of the hammermen and squaremen (masons) are not liable to this evasion, as their work must be chiefly done within burgh, if they are employed in relation to burgal property, and they also claim a right to interdict work finished in Maxwelton, from being put up in Dumfries.

The injurious operation of exclusive privileges in Dumfries is well illustrated by the great comparative increase of the adjoining community of Maxwelton. Twenty years ago, this was a paltry village; it is now a town of considerable importance; and the magistrates of Dumfries, in voluntarily relinquishing entrance fines within the burgh, obviously acted wisely for the interest of the town.

POLICE.

The Police of the town of Dumfries is managed by a Board of Commissioners, constituted by Act of Parliament. In the year 1787, an Act regulating the police was passed, in which the magistrates were appointed Commissioners. Upon the expiration of that Act, however, a new Bill was passed in 1811, vesting the police in Commissioners to be chosen by householders paying £10 of yearly rent. The qualification for a Commissioner was fixed at £12 of yearly rent. The rate of assessment under this Act was 6*d.* per pound on the stented rent of houses from £3 to £5, and from £5 to £10 it was 9*d.*; and on all rents above that sum, the assessment was 1*s.* per pound.

The Commissioners under this Act have, during the respective periods of their management, incurred debts which at Whitsunday, 1833, amounted to £1,714 3*s.* 7½*d.* A large part of this debt is said to have arisen from the expense of proceedings in Parliament, to get a renewal of the Bill, which was keenly and successfully opposed. The Act expired in 1833, and has *not* been renewed. The community delay applying for a new Police Bill, in the expectation that provision may be made by the legislature for enabling the council to administer the police.

The amount of the assessment for 1832 was £815 6*s.* 9*d.*, and the annual revenue of the Police was further increased by a sum of £212 7*s.* 2*d.*, arising from the sale of manure, and police fines. This sum is amply sufficient to defray all the ordinary charges of police.

HARBOUR.

In the year 1811, the Harbour of Dumfries stood greatly in need of repair, and an Act of Parliament was obtained for the purposes of repairing it, and of improving the navigation of the river Nith. Obstructions had been formed in the channel, and it was necessary for the purposes of trade to cleanse, deepen, and straighten it. By this Act Commissioners were appointed for these purposes, with ample powers to carry them into execution.

The magistrates, dean of guild, and treasurer, are members of this Commission *ex officiis*. Ten of the Commissioners are named by the Commissioners of Supply for the county of Dumfries, and ten from the Commissioners of Supply for the stewartry of Kirkcudbright. The merchants of Dumfries annually choose six of their number, and the qualification of electing, or being elected, is the payment of £10 yearly of freight by sea. The remaining six are chosen from shipowners possessing a vessel, or the share of one, of upwards of 20 tons.

Under this Act, £18,930 9*s.* 11*d.* have been expended in attempting to improve the channel of the river, and in repairing the harbour. From the varying currents of the river, the navigation is still very dangerous; vessels of a large size cannot approach within five miles of the town, in consequence of a rock across the bed of the river, which is visible at low water, and which prevents any, except small craft, from ascending to the town. Under these circumstances, considerable dissatisfaction exists at the great outlay, and various suggestions have been made to us for improving the management. In particular it has been represented to us, as circumstances calling for redress—that the harbour Commissioners, under the present Act, being principally nominated from the Commissioners of Supply for the counties, for the most part do not reside in the vicinity of the Nith—that the number of shipowners and merchants who have an interest in electing Commissioners is very small—and, on the whole, that the constituency of the harbour Commissioners is too limited, and, therefore, that it would be advisable, in future, that besides the magistrates who are *ex officiis* Commissioners, the town of Dumfries should have the power of electing a larger portion of the Commissioners.

The amount of the debt affecting the harbour is as follows:	£.	s.	d.
On bond	5,000	0	0
Balance due the treasurer, on last settlement of his account, at 28th September, 1833	909	7	3
	£5,909	7	3

The debt is yearly decreasing, in consequence of £250 yearly being provided for its liquidation.

The duties leviable from vessels arriving at the port are the following:

From coasting vessels	2*d.*	per ton register.	
Foreign vessels	6*d.*	ditto	ditto.
Goods	½*d.*	ditto	ditto.
Coal	6*d.*	ditto	ditto.
Lime	6*d.*	ditto	ditto.

MAXWELTON

And from outward-bound vessels:

Coasting vessels	2*d.*	ditto	ditto.
Goods - -	½*d.*	ditto	ditto.

These dues are moderate, and the revenue arising from them during the last five years has averaged £1,083 5*s.* per annum.

A part of the expenditure above alluded to has arisen from improvements upon the light-house at Southerness, and upon the landing-places at the mouth of the river.

II.

MAXWELTON.

(STEWARTRY OF KIRKCUDBRIGHT.)

THE burgh of Maxwelton, now part of the Town of Dumfries, as lately extended, under the Reform Act, lies on the west side of the river Nith, and is in the county of Kirkcudbright. It has a separate and independent jurisdiction. This Burgh, formerly called Bridgend, was

POPULATION. erected into a burgh of barony in the year 1810, and now contains a Population of 3,257 inhabitants.

CONSTITUTION. Mr. Constable Maxwell, of Nithsdale, is the superior of Maxwelton. It is under the government of a provost and two bailies, who, together with four councillors, are elected by proprietors of the yearly rental of £5 and upwards.

COURTS. There is a weekly burgh Court held in Maxwelton for such petty civil causes as are competent before the Magistrates of Burghs of Barony nominated by the Superior. The magistrates also exercise the powers of justices of the peace, and impose fines and sentence of imprisonment upon delinquents. The number of civil cases is comparatively trifling, as the sheriff of the stewartry occasionally holds small-debt courts here, where disputes of that nature are decided. In the year 1820 there were 40 civil cases, since which there have been very few. The magistrates are assisted by the town clerk, who derives his emolument from the fees in civil cases.

POLICE. There is no Police Act for Maxwelton. The streets have been paved from the county road money, and the lamps are lighted by private subscription. The town officer, and the constables, are the only police functionaries in the place.

The separate jurisdiction of Maxwelton is an inconvenience severely felt in Dumfries. Delinquents escape into Maxwelton, and frequently altogether evade the authorities, before any effectual means can be taken for apprehending them. A corresponding inconvenience is experienced by the inhabitants of Maxwelton. It would be of manifest advantage to both places if the jurisdiction of the magistrates of Dumfries were extended over all the population within the parliamentary bounds.

It does not appear that any serious objection exists to such a measure in the opinion of the respectable members of either community, provided the proprietors and inhabitants of Maxwelton are not made liable for the debt already contracted by the town of Dumfries. As the burgh of Maxwelton, however, is not possessed of any property or funds whatever, while the property belonging to Dumfries appears amply sufficient to meet its debts, the junction of the two communities would be of obvious advantage to Maxwelton.

But there is a peculiarity in the situation of the two towns which deserves consideration. Dumfries and Maxwelton are in different counties, and under separate sheriffs. In Maxwelton there is both a gaol and a court-house, where the sheriff of the county is in the habit of holding courts. The county town of Kirkcudbright is 27 miles distant, and if the privilege of holding courts and incarcerating prisoners in Maxweltown be taken away, it would be felt as a severe inconvenience by those within the neighbouring territory in the stewartry. It will be necessary, therefore, if a junction takes place, that a cumulative jurisdiction in this part of the united burgh be reserved to the sheriff of Kirkcudbright.

DOCUMENTS. The following Documents accompany this Report upon Dumfries and Maxwelton:

1. Evidence taken before Commissioners at Dumfries 23d and 24th September, 1833.
2. Declaration of Provost Murray, 8th February, 1834.
3. Printed copy state of revenue and expenditure of Dumfries, 15th October, 1833.
4. Account of debts of burgh as at September, 1833.
5. Account of prices of property sold for 40 years preceding 1833.
6. Printed copy of table of customs and duties.
7. Act for paving, cleaning, and otherwise regulating the police of the town of Dumfries, 1811.
8. Printed copy abstract of police accounts, from 28th May, 1831, to 25th May, 1832.
9. Ditto ditto, from 25th May, 1832, to 27th May, 1833.
10. State of debt of police, September, 1833.
11. Letter R. Threshie, treasurer to the harbour trust of Dumfries, to the Commissioners, 11th October, 1833.
12. Printed copy report on improvements on river Nith, 21st July, 1810.
13. Act relative to harbour of Dumfries, 1811.
14. Plan of the river Nith.
15. Answers by the town clerk of Maxwelton to inquiries of the Commissioners 27th September, 1833.

JOHN CUNINGHAME.
J. IVORY.

REPORT

ON

THE BURGH OF DUNBAR,

(HADDINGTONSHIRE.)

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DUNBAR.

DUNBAR is a small Burgh situated on the south side of the Frith of Forth; its principal trade is in herrings; it has a harbour, which is incapable of receiving ships of above 300 tons burden, and the entrance to which is in some degree obstructed by rocks. HISTORY, CHARTERS.

In the earlier periods of the history of Scotland the collection of the customs or duties upon merchandize due to the Crown was generally intrusted to the royal burghs, who enjoyed the exclusive privilege of foreign trade. Through the distance of Haddington from the English border, the collection of the king's customs seems to have been neglected in the Merse, during the reign of David II., and an opportunity afforded to the English, when in possession of Berwick and Roxburgh, to purchase and carry off from that district wool, hides, and other merchandize, without paying custom. To remedy the evil, that monarch, by a charter dated the 40th year of his reign, (1369,) granted to the Earl of March the right of having a free burgh at Dunbar, and free burgesses dwelling in the same, who should have the privilege of buying and selling skins, wool, hides, and other merchandize, together with a free port at Belhaven, and all the liberties and advantages which belonged to a free burgh and harbour. The burgesses of Dunbar were also appointed collectors of the king's customs within the bounds of the burgh and harbour; and the boundary of the burgh was declared to be the same as the Earldom of March. It was further declared by this charter that the burgesses of Haddington should have the privilege of trading within the burgh of Dunbar; but that they should pay the customs due upon the articles of their trade there to the collector of Dunbar; and that the burgesses of Dunbar should have the privilege of trading within the bounds of the burgh of Haddington, but should pay the custom due upon the trade there to the collector of Haddington. Appendix, No. 2.

We have not ascertained when Dunbar was first erected into a royal burgh. In the year 1469 a commissioner from Dunbar first appears in the rolls of parliament; but the liability of the burgh to general taxations, in consequence of its admission to the privileges of trade under the charter above referred to, had probably entitled them to be represented in parliament at a much earlier period.

By a charter of confirmation and *de novo damus*, granted to the town by James VI., dated 23rd October, 1618, it is declared "That the ancient old bounds of the said burgh have been, now are, and in all time coming shall be, the haill Earldom of March and Lordship of Dunbar; as also the bounds of the Baronies of Coldingham, Mordingtown, Buncle, Langtown, Innerwick, and Stenton; together with all and sundry tolls, customs, impositions, anchorages, or other duties, casualties, liberties, rents, commodities, privileges, and just pertinents whatsoever, due, used, and wont, as well by sea as by land, and in the peaceable possession of which they have been for these sundry years by past, and at present are." No part of these lands, however, appear to be conveyed to the burgh, and the boundary here described must be that of their exclusive privilege to trade.

The Population of the town and parish, by census 1821, was 5,272, and by census 1831 only 4,735, of which about 4,000 are within the burgh. POPULATION.

The number of houses of £10 annual value and upwards, by a return made to the burgh boundary commissioners, was 150. The number of parliamentary voters enrolled is 132. The number of persons resident within the burgh, whose rents amount to £5 per annum, or upwards, but do not amount to £10, is 280; of these 45 are burgesses. The number of persons resident beyond the bounds of the burgh, but within the parliamentary boundary, whose rents exceed £5, and are under £10, is eight.

Tucker, in his report, November 1656, says, "The towne of Dunbarre, or village rather, is a fisher towne, famous for the herring fishing, who are caught thereabout, and brought thither, and afterwards made, cured, and barrelled up, either for merchandize, or sold and vended to the country people, who come thither farre and nearre at that season, which is frome about the middle of August to the latter end of September, and buy great quantities of fish, which they carry away, and either spend them presently, or else salt and lay up for the winter provision of their families. The trade here is little except salt, which is brought hither and laid up, and after sold for the fishing; the people of these parts, which are not fishermen, employing themselves in tillage, and in affairs of husbandry." pp. 26, 27.

The Property of the burgh consists of the town's common, upon which the burgesses have a right of pasturage, and from which no revenue is derived; of lands, mills, and houses, fishing, sea-ware, teinds of fish, church-seat rents, and stone quarries. The value put upon this property, including £5,000 on the common, is £14,500. PROPERTY.

The Debt due by the town was £8,376 4*s.* 4*d.* at Michaelmas 1832, and it remains about that amount still. DEBT.

It has increased £4,316 16*s.* 7*d.* since 1820, which may be accounted for by extraordinary expenditure and arrears arising during the period, viz.:

DUNBAR.

	£.	s.	d.
Town's proportion of building new church -	1,463	0	5
Expense of obtaining new Act of Parliament for levying shore dues, &c. - - - - -	2,173	0	8 4/12
Expense of boom pier - - - - -	360	4	3 4/12
Arrears outstanding, about - - - -	1,172	5	11
Balance due by the chamberlain - - -	739	3	8
	£5,907	14	11 4/12

It is stated in the chamberlain's accounts that there is a debt of £4,301 6*s.* 10*d.* due to the town by the fund under Act of Parliament, schedule A: but this statement is delusive. The fund under the Act of Parliament, schedule A, is part of the common revenue of the town, coming in place of the customs, &c., levied formerly under their charters and a prior Act of Parliament; that fund is liable for the debts of the town, along with the rest of the common good, but it is not liable in any debt to the town more than any other branch of its income.

REVENUE.

By a statute passed in 1827 the magistrates are entitled,

1st. To levy a duty of two-pence Scots upon every Scots pint of porter, ale, or beer which shall be brewed for sale within the burgh of Dunbar, and royalty thereof, including the villages of Belhaven and West Barns, *or within the distance of one mile from the royalty of the said burgh,* and upon every Scots pint of porter, ale, or beer, brought into, or vended within the said burgh, or royalty thereof.

2nd. To levy a duty of one halfpenny upon every imperial gallon of spirituous liquors retailed within the burgh.

3rd. To levy the rates and duties in schedule A of the Act upon commodities brought into Dunbar, or exported therefrom, in lieu of the customs formerly levied by them.

4th. To levy anchorage, wharfage, and berthage from vessels entering the harbour, according to schedule B. of the Act.

5th. To levy an annual assessment upon all heritable property within the burgh, not exceeding 25*s.* per centum upon the actual rents payable therefor.

6th. To levy annually a sum not exceeding ten per cent. upon the principal sum expended in bringing water into the town, to be assessed upon the occupiers or possessors of houses within the burgh of £3 yearly value, or upwards, and also upon brewhouses, soap-works, &c. This assessment is to be reduced to five per cent. as soon as the debt incurred in bringing water into the town is paid off.

The anchorage, wharfage, and berthage dues are applicable to the repair and improvement of the harbour only; and the assessment for the supply of water is applicable to that purpose only.

The other rates and duties, and the assessment upon property, are liable for the debts of the town contracted under a former Act of Parliament, and are applicable to the repair and improvement of the harbour, and the purposes of the town generally.

See Appendix, No. 1. Evidence, p. 4.

The whole revenue of the town, of every kind, including arrears recovered, received during the year ending at Michaelmas 1832, was, by the statement of the chamberlain, £1,293 14*s.* 6*d.*; but from the account given in by him it appears that this sum includes the assessment for the poor and the king's cess, neither of which form any part of the revenue of the burgh; these together amount to £119 19*s.* 4¼*d.*, leaving the revenue of the burgh £1,173 15*s.* 1¾*d.*

The income of the burgh for the year 1788, as appears from returns made to parliament, was £668 17*s.*

EXPENDITURE.

Appendix, No. 1.

The total Expenditure for the year 1831-2 was £1,385 2*s.* 6½*d.*; but this includes £132 3*s.* 7*d.* paid for poor-rates and land-tax, a very small part of which can have been paid on account of the common property. This sum may therefore be deducted from the total of £1,385 2*s.* 6½*d.*, which will leave the expenditure of the year about £1,253. The year 1832 may be taken as affording a fair view of the ordinary receipts and expenditure of the town of Dunbar.

ADMINISTRATION.

The Administration of the affairs of Dunbar, prior to last election, was in a magistracy and town-council, virtually self-elected.

The management of the council and magistrates so elected seems to have been very irregular.

Productions, No. 3.

Since the last election of the council and magistracy a committee of the council has been appointed to examine the town's accounts, who have reported that they "have, in the above investigation, embraced every spare hour they could command, but, from the confused and unsatisfactory state in which they found the chamberlain's books, they were unable to derive any information; but this is of the less consequence as regards former years, as the yearly statements are in the council minute book, and were made up from the chamberlain's books previous to the fire in his office."*

During the late war the Government rented a part of their common from the town of Dunbar, on which they built huts for cavalry. At the termination of the war these huts were sold, and purchased partly by the town, and partly by a Mr. Hume, whose part the town likewise acquired. The whole of these huts were sold by the town in 1824; and it appears,

* Since this Report was written, the accounts of the chamberlain of Dunbar have been examined by a professional accountant, who has pointed out various inaccuracies in them, and shown that a balance of £739 3*s.* 8*d.* was due by the chamberlain to the town at 9th October 1833.

from the minutes of council of 8th June of that year, that they had fetched £435. This sum is not, however, entered to the chamberlain's debit in the statement of accounts of the year, nor in the minutes of council; nor does it appear in any of the statements of accounts made up in terms of the Act 3 Geo. IV., c. 91, and inserted in the minutes of council, from that time down to the present, under either the head of receipts or arrears.

The Act 3 George IV., c. 91, expressly provides, that all sums received for property sold shall appear in the annual statements of receipts and expenditure. The provost of the year 1824 signed the docquet of the statement of accounts inserted in the minutes of council that year, in the words of the Act; and having been "required to say how it happened that the price of the barrack-huts, amounting to £435, was not entered to the chamberlain's debit in that account? he declared, That "he cannot say; he supposes he must have been desired to subscribe the docquet by the rest of the council; and although he may have been wrong in doing so, he is sure there is no moral turpitude attached to it, as nothing wrong was intended, and he feels satisfied that the whole of that sum would have been accounted for if Mr. France the chamberlain's books had not been burnt. It appears from the state that the expenditure of the year considerably exceeded the income."

No satisfactory account has yet been given of the burning of Mr. France's books: they were not burnt till January 1827. The price of the barrack-huts must have been received between the date of the sale and the burning of the books, but there is no trace of it in the yearly states for the intermediate period recorded in the minutes of council.

The barrack-huts are not mentioned in the list of alienations of the town's property given to the Commissioners by the town clerk.

There are two lesser sums of £30 each, the price of a piece of ground and a seat in church which had been sold, and which do not appear in the annual states made out for the inspection of the burgesses.

There appears to have been generally too great an arrear allowed in the collection of revenue, and the arrears recovered do not seem to have been properly accounted for till the year 1829, when a regular examination of the chamberlain's accounts appears, for the first time for many years, to have taken place. The magistrates and council do not appear to have been anxious at this time to establish a strict accounting, for when one of the bailies drew up a set of instructions to be followed by the chamberlain in making up his yearly accounts, in order to afford a correct view of his whole yearly transactions, and proposed them for adoption by the council, though they were approven of by another bailie and the provost, who had also been engaged in examining the chamberlain's accounts, yet they were rejected by the council. Evidence, p. 19. Evidence, pp. 20, 21.

As an example of the system of management of the town's affairs, it has been stated to us, that in 1802, two acres of links or common had been feued for an annual *feu duty of* £3; that this feu duty was sold to the vassal for £50 in 1809; that about 16 years ago the inhabitants of Dunbar, seeing the necessity of having new schools, subscribed £800, which they were willing to pay over to the magistrates, provided they would build new schools in a proper situation, without asking any vote in the appointment of the teachers or management of the schools; that the proprietor of the two acres of links above mentioned wished to have the schools built there, but the inhabitants thought this an improper situation, and would not agree to it; it was then understood that the magistrates had agreed to build the schools on the site of the old schools, but they afterwards declined doing so, saying that they must keep the site of the old schools for a prison: and the inhabitants withdrew their subscriptions. This statement seems to be confirmed by the minutes of subscribers, 2d September 1819, from which it appears that the subscribers were relieved from their subscriptions, because they could not agree upon a proper site to build the schools. The town paid the proprietor of the two acres of link-ground, who was an influential member of the council, £350 for about one-third of his feu, as a site for the schools; the contract price for building them was £630 or £640, and they cost ultimately about £1,250. It thus appears that the council, in opposition to the wishes of the inhabitants, preferred paying £350, to one of their own number, for a site for the schools, to rebuilding them upon the old site, already the property of the burgh, and thereby lost £800 subscribed by the inhabitants for building the schools. This transaction, therefore, brought an expense of £1,150 upon the burgh funds, which might have been saved, had the council built the schools in the situation which the inhabitants thought the best. The contractor for the carpenter-work was connected with the town-council; his father was employed to see that the work was performed in terms of the contract, and it afterwards proved totally insufficient. The town clerk, and the late provost, from the latter of whom the ground for the site of the schools was feued, have been made aware of these statements, and they have made answers to them, which we have thought it proper to give in their own words, though they do not appear to us to meet the charge of mismanagement. They will be found in the Appendix, Nos. 3 and 4. Evidence, pp. 7, 8, 9. Productions, No. 1. pp. 8, 9.

By a return made to us, it appears that since the union of the kingdom, in 1707, the magistrates of Dunbar have alienated property, for which they have received £4,287 3*s.* 8*d.* Of this sum, £3,838 17*s.* has been received since 1st January 1800, exclusive of the price of the barrack-huts. Many of those sales were made by private bargain. Productions, No. 4.

The magistrates of Dunbar levy no burgal Taxes but those already mentioned as making part of the revenue of the town. Prior to the Act of Parliament 1827, shore-dues and customs were levied under an Act of Parliament passed in 1806; the magistrates printed a schedule of rates different from that in the Act, and levied according to it. When this was discovered, two gentlemen engaged in the curing of herrings brought an action against them for repetition of duties with which they had been overcharged, and obtained decree for restitution of above £30, which they had been illegally made to pay. TAXATION. Productions, No. 11.

DUNBAR.

JURISDICTION.

The Jurisdiction of the magistrates of Dunbar extends over the whole royalty, which is ill defined. It is thought by those whom we examined, that it would not be expedient to extend the jurisdiction of the magistrates to the parliamentary boundary, as that boundary would include a considerable agricultural territory, and at the same time exclude part of the lands holding burgage; but it appears necessary that the boundaries of their jurisdiction should be of new ascertained and described.

The jurisdiction of the magistrates is the same as that usually possessed by magistrates of royal burghs. The civil cases now brought before them are of small amount, and the criminal cases are for petty riots only.

The number of causes brought into the Bailie Court has been diminishing since 1821. There were only nine civil and three criminal cases tried in the year 1832. The business of the Bailie Court has declined very much since the introduction of the Sheriff's Small Debt Court; there was only one civil action tried in it last year (1833).

There is no dean of guild in Dunbar. The magistrates discharge the duties incumbent on that officer in other burghs.

PATRONAGE.

The magistrates and council have the appointment of the town clerk, chamberlain, superintendent of police, procurator fiscal, burgh schoolmasters, clerk to the corn-market, and burgh officers. They have no other Patronage.

There are two schools in the town, the grammar and mathematical. The master of the first has a salary of £42 per annum; the latter of £36 per annum. At the latter, besides all branches of mathematics and penmanship, navigation and drawing are taught.

The town of Dunbar has no church patronage.

EXCLUSIVE PRIVILEGES.

There is no guildry, and there are no incorporated crafts possessing Exclusive Privileges in Dunbar. Burgesses have the privilege of pasturing two horses, one cow, and one follower, on the town's common.

ELECTION OF MAGISTRATES AND COUNCIL.

The Council of Dunbar consists of 20 members, including a provost, three bailies, and treasurer.

Prior to the date of the Act 3 and 4 William IV., the magistrates and old council, out of a leet of eight made by themselves, chose four new councillors; the old and new council chose the five magistrates out of leets made by themselves, and then the old and new magistrates put off such four of the old councillors as they thought proper. There was no provision for any change in the council, except the four annually put off; so a majority of the council continued without election, and there was no restriction upon the re-election of magistrates.

The council of Dunbar is now chosen in terms of the Act 3 and 4 William IV. The number of councillors is too great for the extent and population of the town.

POLICE.

The Police of the town is attended to by the magistrates, superintendent, and town's officers, and it does not appear that any further establishment is necessary in the present state of the burgh.

GAOL.

The Gaol of Dunbar consists of two large square rooms: in the one there is a fire-place and window; in the other there is no fire-place, and no window: light is admitted by a slit in the wall, which there is no means of closing. This gaol seems unfit for the reception of prisoners. All culprits apprehended in the town or neighbourhood for any serious offence are sent to Haddington, which is complained of as a great hardship on that town, as Dunbar is equally bound as Haddington to have a gaol fit to keep prisoners in safe custody.

DOCUMENTS.

The following Documents accompany this Report:

1. Evidence taken by the Commissioners at Dunbar, 23rd, 24th, 25th December, 1833.
2. Answers to Heads of Inquiry issued by the Commissioners.
3. Second Report by the Committee of the Town-Council, on Revenue and Expenditure of the Burgh, 1833.
4. Report of Alienations by the Magistrates of Dunbar, November 1833.
5. Copy Letter Mr. Ruddiman France to the Magistrates and Council of Dunbar, 20th December 1833.
6. Answers by the Town Clerk of Dunbar to Heads of Inquiry by the Commissioners, 22d August 1833.
7. Description of Charters to the Town of Dunbar.
8. Copy Charter in favour of the Burgesses of Dunbar, October 23, 1618.
9. Return of Grammar-School Fees.
10. Ditto of Mathematical Teacher.
11. Letter Mr. J. Kelly, sen. to Mr. Campbell, 24th December, 1833.
12. „ „ 4th January, 1834.
13. Memorandum C. R. Sawers transmitted in the above.
14. Account of the Common Good and Revenue of the Burgh of Dunbar, from 5th October 1832 to 9th October 1833.
15. Printed Abstract Accounts of the Town of Dunbar, 1832-3.
16. Report of the Committee of Burgesses on Statement, &c., of the Town of Dunbar's Accounts from 5th October 1826 to 5th October 1827.
17. Harbour, &c., Act of Dunbar, 21st June 1827.

JAMES CAMPBELL.

APPENDIX TO REPORT ON THE BURGH OF DUNBAR.

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No. I.

ACCOUNT of the COMMON GOOD and REVENUE with the EXPENDITURE of the Burgh of DUNBAR, from 30th September 1831 to 5th October 1832, made up in terms of the Act of Parliament.

BRANCH I.—*Charge or Revenue of the Burgh.*

	£.	s.	d.
Customs, imposts, and shore dues	370	0	0
Anchorage of vessels	143	0	0
Impost on ale	12	0	0
Ballast of vessels	35	0	0
Teinds of white fish	1	1	0
Dung of Belhaven	2	8	0
Teinds of herrings	4	0	0
Sands, sea ware	40	10	0
Wilkie Haugh ditto	1	13	0
Steil yard	8	0	0
Pasture of Winterfield gates	0	10	0
Mud of Harbour	0	5	0
Cutting Ware rocks	1	0	0
Westbarn's mills	73	15	10
Belhaven salt greens and mill lands	16	0	0
Belhaven salmon fishings	6	10	0
Belhaven spinning mill	4	0	0
Broadhaven	7	0	0
Grass at P. Johnstone's	0	12	0
Flesh sheds	2	0	0
Ground at Old Factory	9	0	0
Quarry	12	0	0
Dung of the streets	268	18	0
Rents of town's houses	60	0	0
Church seats	9	19	0
Burgess entries	10	0	0
Feu duties	25	1	10
Water pipes	11	4	0
Cess on property under Act	59	4	9
Cess for poor's rates on trade and property	90	12	0½
Cess on property for land tax	29	7	4½
Assessment for water	47	19	0
Total yearly revenue	£1,362	10	10

BRANCH II.—*Discharge or Expenditure.*

	£.	s.	d.	£.	s.	d.
Interest of money due by the town				335	4	10
Salaries, annuities, officers				257	1	9
Contingencies or incidental expenses, including law expenses				266	0	6½
Expense of cleaning streets, &c.				252	10	2½
Poor's rates	104	17	7			
Land tax	27	6	0			
				132	3	7
Repairs of harbour				61	8	11½
Repairs of streets				24	6	11
Repairs of town's houses				13	6	2
Repairs of wells				8	6	5½
Debts paid				34	14	6
Total expenditure				£1,385	3	11

DUNBAR.

BRANCH III.—*Debts due by the Town.*

	£.	s.	d.
Binning's Mortmain, and Hume's mortification	175	0	0
Alexander and George Common's heirs	800	0	0
Society of sailors	500	0	0
Heirs of Mrs. Hume	300	0	0
Miss J. Drysdale	500	0	0
Mrs. Cockfield	500	0	0
W. H. Ritchie	1,200	0	0
William Hume's heirs	2,921	14	5½
D. Ford	300	0	0
J. and C. Purves	300	0	0
Evan Cameron	300	0	0
C. France	500	0	0
Balance due to C. Middlemass	14	18	11
,, due to G. Sked	8	12	5
,, cash due to chamberlain	55	18	6½
Total town's debts	£8,376	4	4

BRANCH IV.—*Debts due to the Town.*

	£.	s.	d.
Arrears of former years	574	10	2
Arrears of the present year	453	15	6
Balance due to the town by the fund under Act of Parliament schedule A	4508	9	10
Balance due to the town by the fund under Act schedule B, or harbour	73	4	3½
Balance due by the fund under the Act schedule C, or water fund	498	14	3
Total	£6,108	14	0½

BRANCH V.—*Valuation of Town's Property.*

	£.	s.	d.
Westbarn's mills and mill lands	3,000	0	0
Town's houses, consisting of battery, Sisters' Granary, old school-houses, flesh-markets, shops at town's house, Belhaven mill, mason lodge	1,500	0	0
Common, supposed 40 acres grass, and Belhaven salt greens	5,000	0	0
	£9,500	0	0

Note.—It is now ascertained that there are 46 acres of land in the common, which may be valued at £1,000 more. Gallow Green £1,000, and the town paid for building slaughter-house, new schools, church, and Boom Pier, above £4,000; which forms the debt under the Act, as stated in Branch IV. of debts due to the town; so that the town's property altogether may be said to be worth above £14,500.

No. II.

Dauid, Dei Gratia Rex Scottorum, Omnibus, &c. Quia ad aures nostras fide digna relatione pervenit quod mercatores de Anglia ac de Berwyco et de Roxburgh, qui sont ad fidem Regis Anglie, emunt et de regno nostro abducunt lanas et coria, ac alia bona et mercimonia de quibus custuma nobis debetur, nullam custumam nobis inde soluentes, ex eo forte quod burgus noster de Hadyngton, et custumarii ejusdem, sunt a marchiis regni nostri plusquam hiis diebus expediret remoti. Nos super hoc de remedio prouidere volentes, ac contemplatione dilecti consanguinei nostri Georgii Comitis Marchie concessimus, et de presenti concedimus, quod dictus Comes et heredes sui Comites Marchie, apud Dunbarr liberum burgum habeat ac liberos burgenses incolas dicti burgi, plena burgensium libertate gaudentes emendo coria, pelles, lanas, et alia quecunque mercimonia in aliis burgis nostri regni, em et vendi consueta quodque crucem fori publici, habeant et erigi ficiant, ac forum ibidem omni die lune, de lanis, pellibus, et coriis, ac aliis mercimoniis supradictis, teneant custumariique nostri in dicto burgo, nostra ac heredum et successorum, nostrorum auctoritate, statuantur, ad tronum, ad ponderandum lanas, et coketam, ac liberum portum apud le Bellehauen habeant, cum libero introitu et exitu nauium et mercimoniorum, prout in aliis regni nostri portibus haberi noscuntur, cum omnibus aliis libertatibus, commoditatibus, aysiamentis, et justis pertinentiis, que ad liberos burgum et portum possunt vel debent de jure vel consuetudine pertinere. Ita tamen quod custumarii nostri in dicto burgo de Dunbarr, supra constituendi custumam de bonis et mercimoniis in dicto portu de Belhauen emptis et carcatis, tam de lanis, pellibus, et coriis lanutis, quam aliis ad opus nostrum heredumque et successorum nostrorum, percipiant ac inde in nostro Scacccario compotum et ratiocinium, annis singulis reddere teneantur coketamque de bonis sic carcatis et emptis singulis mercatoribus, fieri faciant quam coketam super Scaccario volumus et precipimus allocari. Volumus insuper quod dictus burgus de Dunbarr habeat pro bondis suis totum comitatum Marchie, sic tamen quod liceat burgensibus burgi nostri de Hadyngton infra dictum comitatum Marchie, emere lanas, pelles, coria, et alia mercimonia que supra, soluentes inde custumariis nostris in dicto burgo de Dunbarr, vt supra constituendis, custumam et alia

deneria capiendo coketam suam apud Dunbarr, quodque simili modo liceat burgensibus de Dunbarr emere infra bondas dicti burgi de Hadyngton, lanas, pelles, et coria, ac alia pretacta, soluendo similiter custumam, et alia deneria in talibus consueta, apud eundem burgum de Hadyngton, et ibidem coketam suam capiendo. In cujus Rei, &c., testibus, &c. Apud Edynburgh octavo die Februarii anno regni nostri quadragesimo.

No. III.

SIR, *Dunbar, 23rd January*, 1834.

I was duly favoured with your letter of the 18th, and as you wished me to show it to Mr. Middlemass, I sent it to him on Monday morning, requesting his attention thereto. It appears that he has mislaid it, and as I did not keep a copy, I fear that I may not answer it so fully as you could wish.

The enclosed letter from Mr. Middlemass points out the original transaction as to the Links Park, on which the schools are built. I enclose excerpts from minutes of council respecting their erection, of dates 23rd April and 7th May 1824, and 22nd March 1825. After the estimates were agreed to, I observe, from my evidence before a committee of the House of Commons in 1827, that I mention that the schools were enlarged at the suggestion of a number of the inhabitants, and the expense thereby increased—to what extent I had not the means of ascertaining.

David Simpson, who measured the extra work, was father of Thomas Simpson, one of the contractors. He was a sworn measurer, and had been appointed measurer to the town several years before.

The magistrates did not object to the £800 subscription for building schools, but the subscribers quarrelled among themselves, and the subscriptions were withdrawn. As I hold the minute book as clerk to the subscribers, I send it herewith for your perusal, and will be obliged by your returning it.

The best information I can give you respecting the duty charged on herrings exported is to refer to the Report of the case, as contained in Shaw's Collection, Magistrates of Dunbar *v.* Kelly and Sawers, 26th Nov. 1829.

I know nothing of the alteration alleged to have taken place on the present custom roll in the article of herrings exported after it was revised by the Committee of Commons. I should think any alteration impossible, as the opposers of the Act took every means to prevent such taking place. I know that the duty is complained of as being high, and attempts have been made to get it reduced without effect. Whether the magistrates and council have a legal power to alter is not for me to determine.

If I have not been sufficiently explicit in my answer to your letter, I beg you will attribute it to the circumstance mentioned at the beginning hereof; and if you wish any further information, I shall be happy to give it if in my power.

I am, respectfully, Sir, your most obedient, humble servant,

WM. H. RITCHIE.

—— *Campbell, Esq. Scotch Burgh Commission, Edinburgh.*

No. IV.

DEAR SIR, *Dunbar, 23rd January*, 1834.

Some of my people have unluckily mislaid Mr. Campbell's letter to you, and I am afraid I shall not well recollect all his queries. I shall, however, be most happy to furnish every information in my power, as far as my memory goes at such a distance of time, and without the assistance of documents.

I think, about January 1802, I petitioned the magistrates and council (in compliance with the suggestion of many of the inhabitants) to allow me to feu a piece of waste links which was at that time a perfect nuisance, and to reclaim from the sea, where it was making rapid inroads, by building a strong sea-wall at my expense, as much ground as might in time be improved and built upon. I desired the magistrates and council to deliberate maturely on my proposal, and accordingly in about six months thereafter they came to the conclusion of allowing me a certain specified quantity of the sand links, with liberty to approach the sea as far as I thought safe, and for this piece of waste ground, round which I was bound to build a wall, I was to pay a feu of three guineas per annum. This being arranged, I set to work and built a very strong wall towards the sea, with a deep foundation of large stones four feet thick, to resist the heavy swelling sea we have generally every winter on our coast, and after enclosing the whole ground, and making roads, I collected clay and earth from various quarters, at a very heavy expense during a period of several years, until the sum amounted according to my calculation one way or other, with outlay and interest, to about £600, (it having cost me £70 to rebuild part of the wall the sea had washed down before it was finished,) having in that time completely levelled the high sand hillocks, and laid on the surface about fifteen inches thick of clay and soil. This great improvement changed the appearance of the spot, and greatly beautified it, and where formerly every kind of filth was collected, so that the people from the horrid smell could hardly approach the church, it was now covered with a fine verdure, and rendered eye-sweet to every passenger; and from the buildings that have since been erected, it has certainly become one of the most desirable spots for a residence about Dunbar.

Besides, a sea wall was absolutely necessary to protect the town's property, as the sea was making rapid progress, and by this time, now 30 years, would have encroached on the very site of the church. After the wall was built, and the place much improved, the magistrates and council advertised the adjoining ground to feu, and lots were sold by public roup for building six handsome cottages, with gardens in front and rear, and for which the town receives in all 46*s.* per annum of feu for a space hardly equal in proportion to what I got. This, however, proves that I paid an ample feu, considering the improvements, and of which the other property reaped an evident advantage.

Some time after this the magistrates and council, finding it very difficult to collect all the small feus, gave notice that they were willing to sell them at a certain number of years' purchase, when I, along with others, agreed and bought them at the terms advertised.

With respect to the part I sold for building the schools upon, the particulars of that transaction can

DUNBAR.

be best explained from the town's records, and to which I beg leave to refer, and where I am sure you will find that the magistrates and council paid every attention to the interest of the burgh. I must also refer you to the minute book in your possession as to the subscriptions referred to in Mr. Campbell's letter, a perusal of all which I am sure will free me, as far as I was concerned, from all blame with every unprejudiced person. I may also add that a part of the sea park was sold at a higher rate to the seceding congregation than what the town paid me, and on which the seceders built a handsome chapel and manse.

I am, dear Sir, your's very truly,

CHR. MIDDLEMASS.

W. H. Ritchie, Esq., Town Clerk, Dunbar.

No. V.

EXCERPTS FROM MINUTES OF COUNCIL.

23rd April, 1824.

The meeting resumed consideration of the schools, and after hearing Provost Middlemass thereon, who had agreed by last minute to leave the fixing of the feu duty for his park to a committee, he now suggested that four councillors should be named by ballot for that purpose, and he further consented that whatever feu should be fixed on he would sell to the town whenever they chose at 25 years' purchase, whereupon Councillor Millar moved that four councillors should be immediately balloted to fix the feu, and the quantity of ground required for the purposes of the erections agreeably to the plans. A ballot having been made and the names drawn by Mr. Millar, the lot fell on Councillors Aitchison, Cannon, Simpson, and Thomson, who were requested to report to next council.

7th May, 1824.

The clerk stated to the meeting that this council had been specially called in terms of last minute.

The magistrates and council having revised their former minutes as to the erection of new schools, with the specifications and plan, the meeting finally resolved to adopt the plan, and appoint the provost to sign it. The estimates, as copied into the minute of council of 3rd April last, being then considered, they find that the lowest estimate for the mason work is that of

	£.	s.	d.
William Wilson - - - - - - - -	229	5	0
Joiner work, Thomas Simpson - - - - -	258	0	0
Glazier and slater work, Andrew Nisbet - - -	130	0	0
Plaster work, David Goodall - - - - -	22	0	0

And therefore the meeting find that these gentlemen are the contractors; and that arrangements should immediately be adopted for carrying the work into effect, and appoint the magistrates as a committee to carry it into effect. The vote of the council having been taken upon the question whether the site should be the present one, or Provost Middlemass' park, the meeting voted for the park, excepting Bailie Hogg and Councillor Millar, who voted for the old site, Councillor Robertson having withdrawn before the vote was taken, and protested against the proceedings for reasons to be lodged.

The following Report was given in by the committee appointed by minute of 23rd ulto. to fix the extent of the yearly feu:—"Dunbar, 26th May 1824. In consequence of the remit from the magistrates and council, we have considered the value of that portion of Mr. Middlemass' Links Park upon which it is intended to build schools, and we find that, in comparing it with those recently sold, it appears as follows: Mrs. Neilson's property contains 540 yards, and cost £178; is nearly 4*s.* 10*d.* per yard. The ball-room 439 yards, pays £5 of feu duty, 4*s.* 6*d.* per yard. The ground occupied by Mr. Bane's house and meeting-house was sold at £6 feu, afterwards bought up for £120. If, therefore, 1,390 square yards (the quantity contained in the above space) cost £6, what should 3,400 yards cost, being the space necessary for building the schools and school-house according to the agreed plan in the Links Park, which comes to £14 13*s.* 6*d.* being 13*s.* 6*d.* more than the sum agreed by the magistrates and council to be paid Mr. Middlemass, and for which he also offers ten feet off the head of his garden for the purpose of straightening the public road? It may also be proper to remark that the Links Park, upon the same data of calculation as Mr. Lorimer's feu, cost only 1*s.* 9*d.* per yard.—(Signed) David Simpson, James Thomson, John Aitchison."—The meeting therefore find the feu duty to be £14 per annum, including the head of the garden, as mentioned in the former minute, to which the provost agreed, and offered £10 to assist in bringing down water to the building whenever it might be required.

22nd March, 1825.

The magistrates and council authorize and appoint the magistrates as a committee to fix and settle for the extra work done at the new schools, and appoint Mr. David Simpson as measurer.

REPORT

ON

THE BURGH OF DUNDEE,

(FORFARSHIRE.)

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DUNDEE.

DUNDEE was at an early period created a royal burgh. It was conferred by William the Lion upon his brother David, Earl of Huntingdon; according to tradition, upon his return from the Holy Land. The circumstance of the burgh having thus held of a subject as its superior seems to have given rise to doubts whether it was entitled to the privileges of royal burghs, and in consequence King Robert the Bruce, in the 20th year of his reign, issued a commission to his chancellor and chamberlain to inquire into the extent of the privileges which had been enjoyed by the burgesses of Dundee in the reign of his predecessor Alexander III. These officers having summoned a jury composed of landed men, and of burgesses of Berwick, Aberdeen, St. Andrew's, Forfar, Arbroath, and Montrose, they found, "quod prefati burgenses de Dunde habuerunt et possiderunt tempore Regis Alexandri predicti, et temporibus regum Scottorum predecessorum suorum, eandem libertatem emendi et vendendi per aquam et per terram sicut aliqui burgens. per totum regnum Scocie liberius aut quiecius habuerunt seu possederunt; videlicet, in mercato, in nundinis, in libero portu, cum accessu navium oneracione et exoneracione earundem, cum gilda mercatoria, et aliis libertatibus universis sicut liberi burgens. regni." When this verdict was returned to the King, he by a charter, dated the twenty-second year of his reign, granted and confirmed "Burgensibus nostris burgi de Dunde, heredibus suis et assignatis, ac eorum successoribus in perpetuum, omnis libertatis et jura, quas et que tempore bone memorie Domini Willielmi Regis Scottorum habuerunt et possiderunt antequam, idem Rex Willielmus David fratri suo, dictum burgum contulerat. Concessimus eciam et confirmavimus eisdem omnes libertates et consuetudines, cum libero portu, foro, et nundinis, quibus utebantur tempore bone memorie Domini Alexandri Regis Scottorum predecessoris nostri ultimo defuncto, prout de mandato nostro speciali coram cancellario et camerario nostro, per probos et fideles homines patrie, et burgorum circumquaque vicinorum nuper fuerat recognitum apud Dunde." This charter also exempted the burgesses, "per totum regnum nostrum de tholoneis, pontagiis, passagiis, muragiis, panagiis, carragiis, lastagiis, rinagiis et picagiis, et de tota vendicione sua, achato, et rechato, et ab omnibus custumis, de bonis suis propriis prestandis; nova custuma nostra, que dicitur maletort, duntaxat excepta;" granted to them the right of having a merchant guild, and forbade any one within the sheriffdom of Forfar to buy wool and hides "preter burgenses de Dunde," and all strangers merchants within that sheriffdom, or the burgh of Dundee, to buy any merchandize except from the burgesses, "si vero aliquis mercator inventus fuerit emens lanas vel coria aut alias mercaturas alio sub modo in dicto vicecomitatu vel in burgo de Dunde, corpus ejus per burgenses nostros de Dunde predictos capiatur et detineatur donec de eo percipimus voluntatem nostram, et bona sua sic empta ad burgum de Dunde predictum conducantur, et burgensibus ejusdem burgi pro escaeta efficiantur;" it also prohibited any stranger merchants coming to the market of Dundee and purchasing their goods before they were exposed there "sub pena amissionis rei empte ad usum dictorum burgens. applicande, et sub pena carceris a quo sine gravi castigatione non evadat." David II., in the thirtieth year of his reign, granted the burgh in feu-farm to the burgesses "Reddendo inde nobis annuatim in Cameram nostram dicti burgenses, heredes sui et assignati, ac eorum successores, viginti libras sterlinensis tantum," and exempted them from the jurisdiction of all magistrates except the chamberlain for the time being, "exceptis illis que vitam et membra tangunt."

1325. Appendix, No. 1

Appendix, No. 2.

Appendix, No. 3. 1327.

1359.

A charter granted by Charles I., dated 14th September 1641, confirming the former charters, "gives, grants, and dispones, and for us and our successors for ever confirms, to the said provost, bailies, council and community of our said burgh of Dundee, and their successors, all and whole the said burgh of Dundee, with all lands, tenements, and annual rents, lying within the same, and liberty thereof; and with all and sundry privileges, liberties, and immunities thereof, of which they and their predecessors are, and were in possession at any time heretofore; together with the petty customs, port and pier dues, privileges and duties; and with the tolls, customs, and duties of markets and fairs of our said burgh used and wont, with the immunities, privileges, and liberties of the water of Tay; of loading and unloading of ships and boats at any part of the said water, lawful for them on both sides thereof, from the said Burnmouth of Invergowrie on the west, to the place which is called the Gaw of Barrie on the east, on the north side of the said water of Tay; and from the place where the monastery of Balmerinoch was situated on the west, to the said lands called Drumla Sandes on the east, on the south side of the water of Tay, with power of hindering and preventing others from all loading and unloading of whatever ships and boats in any part of the said water within the aforesaid bounds, and of levying and receiving all petty customs, anchorages, or shore silver, and other duties within the aforesaid bounds, as freely in all respects as the burgh of Edinburgh levies at the town of Leith, and as is levied by any other free royal burgh, or by any other persons at any sea-ports within our said kingdom, &c."

It does not appear that the lands held by Dundee under these charters were extensive. In a report prepared some years ago by a committee of the town council upon the harbour, it is

Productions, No. 2, p. 25.

DUNDEE.

stated, that "in 1640, and for several years afterwards, the inhabitants appear to have been in constant agitation. During these troublous times, troops were continually marching to and from the town; great numbers were almost constantly quartered on the people; and the fortifications of the town, and other warlike preparations, were an unceasing burden. Imposition after imposition was laid upon the inhabitants, and, to add to their distress, the town was afflicted in 1646 by some pestilential disease, (termed in the records 'the plague.') Great misery ensued, and all ordinary intercourse and business were suspended. In 1647 new fortifications were ordered. In 1650, Charles II., after being crowned at Scone, made Dundee for a time his principal resort; and in the fulness of their loyalty the council and inhabitants entertained him at great expense, and submitted to what were termed loyal *grants*, but were in reality burdens they could not resist; raising some troops of horse at the expense of the town, making lavish gifts of money and arms, and otherwise aiding Charles in his unsuccessful effort to recover the crown. In 1651, the town was besieged by General Monk, carried by storm, and sacked. In 1668, a violent storm altogether destroyed the harbour. In short, as is forcibly described in the preamble of an Act of Parliament, bearing reference to these events, the town became burdened 'by great and unsupportable debts,' and was reduced to extreme distress, manifest decay, and imminent ruin."

Tucker's Report, p. 32.

Tucker says, "the town of Dundee was sometime a towne of riches and trade, but the many rencontres it hath mett with all in the time of domestick comotions, and her obstinacy and pride of late years rendering her a prey to the soldier, have much shaken and abated her former grandeur, and, notwithstanding all, shee remaynes still, though nott glorious, yett not contemptible."

1656.
Report of Commission of Convention of Royal Burghs.

There were only 10 vessels belonging to the port at the time Tucker wrote, carrying in all 470 tons. In 1692, the number had increased to 21, and the tonnage to 1091.

Productions, No. 2, p. 28.

"The distress of the town was so great in 1669, that an Act of Parliament was passed, recommending the burgh to the commiseration and aid of the people throughout the kingdom; and under this Act money was obtained, both from all the principal burghs, and also from several of the smaller burghs, and from presbyteries and parishes throughout the country, even from the extremities of Scotland. The Crown also gave aid by grants of fines imposed on political delinquents."

We could not learn, from our inquiries at Dundee, that the burgh had ever possessed estates in land of considerable extent. But upon looking into the register of the Great Seal of Scotland, we have found two charters granting to it valuable lands and fishings. By the first of these, King Charles II., in the thirty-fourth year of his reign, upon the resignation

1682.
Reg. Mag. Sigil. Lib. lxviii. 246.

of J. Wedderburn of Blackness, conveyed to the provost and magistrates of Dundee, for the use of the community, the lands of Logie, with the mansion-house, gardens, and orchards, sixteen acres of the lands of Balgay, and certain other small portions of land, with the teinds of the whole; "reddendo annuatim prefat. Prepositus, Ballivi et Decani artium dict. burgi de Dunde, et eorum successoribus, pro seipsis et nomine reliquorum concilii et communitatis dicti burgi, nobis et successoribus nostris, pro dict. terris de Logie et antea dicta parte seu portione dict. terrarum de Balgay, &c., summam novem librarum octo solidorum et octo denarium, &c.

1697.
Reg. Mag. Sigil. Lib. lxxiv. 113.

By the second charter King William and Queen Mary, on the resignation of the Earl of Lauderdale, and Sir Robert Milne of Blackburn, conveyed to the provost, bailies, and council of Dundee, "pro communi usu et utilitate dicti burgi," the lands of Dudhope, with houses, mills, and teinds, the burgh of barony of Rottenraw, commonly called Bonathill of Dundee, "totam et integram advocationem donationem et jus patronatus ecclesiæ de Dundee et rectoriam ejusdem, et decimas garbales infra parochiam earundem," the acres of East Ferry, the lands and salmon-fishings of Draffine, and the lands of Duntoune of Baldovie, and also the lands of Kirkton, and the plough land called the Oxengate of Rateculls and Catermiln in Perthshire; and generally all lands, acres, and houses lying about the burgh of Dundee, belonging to Lord Lauderdale.

Notwithstanding these grants, "the town was declared insolvent; and though ultimately all the debts were paid, and the credit of the town was restored, yet in 1705, and for many years afterwards, the affairs were managed under the control of a committee of creditors; and the magistrates annually obtained a deed superseding diligence before they accepted of their offices."

The merchants and manufacturers of Dundee are now in point of skill and enterprise second to none in Scotland, and none of the Scotch burghs appear to be more rapidly increasing in wealth and population. In former times the trade of Dundee was nearly confined to the north of Europe, but it now extends to America, and the East and West Indies.

POPULATION.

By census 1821, the Population of the burgh and parish of Dundee was 30,575. By census 1831, it was 45,355. By a return made to the Burgh Boundary Commissioners in 1831, the number of houses valued at £10 and upwards yearly rent was 1,511. The number of voters enrolled within the parliamentary boundary is 1,578.

PROPERTY.

The Property of Dundee consists of lands, houses, churches, a mill, and salmon-fishings.

Appendix, No. 4.

The property of the burgh, not including the churches, is valued by Mr. James Black, architect, at £123,447 10*s.* 10*d.*

DEBT.
Productions, No. 1. p. 4.

The Debt due by the town, including the church debt, for which the town's funds generally are liable, amounted, on 6th August 1833, to £86,554, 1*s.* $9\frac{8}{12}$*d.*

The debt due to the town amounted at the same date to £27,737 19*s.* 5*d.*

Twenty-seven thousand five hundred pounds of the debt due to the town is due by the harbour trustees, being the price agreed to be paid to the town for giving up their claim to

shore-dues, &c.; the remainder is due by the Forfar-road trustees. Both debts are good, and the interest derived from them makes part of the annual revenue of the town.

Besides the debt due by the burgh, the magistrates have placed it under various cautionary and subscription obligations.

When the Harbour Acts were applied for to parliament, the provost, on the part of the community, subscribed an obligation for the estimated expense of the works. Productions, No. 14.

The town-council and the trades were authorized to grant the security of the town for the purposes of the harbour, and bonds to the extent of £20,000 have been granted accordingly. Account of 2*d.* Duty, 1831.

The magistrates and council have besides borrowed £6,000, which were lent to the Harbour Commissioners. Returns to Parliament, 25th January 1833.

They also subscribed £2,000 for the improvement of the ferries across the Tay, of which £800 has been paid; and

There has been advanced, for 30 shares of the Newtyle Railway, £1,050.

The debt of Dundee, when the state of the affairs of the burgh was inquired into before a Committee of the House of Commons, in 1819, amounted to £15,000 or £16,000; it has been gradually increasing since that time. This increase has been occasioned by the purchase of property for opening up new streets, and by the expense of improvements made on the town; some of which seem to have have been indispensable, such as making common sewers; others seem to have been questionable in point of prudence, in the state of the town's finances.

Since the year 1792-3, the magistrates have sold property, the prices of which, including feu duties sold this year (1833), amount to £19,710 18*s.* 8*d.* ALIENATIONS.

It appears from returns to parliament from 1827 to 1831, and from the abstracts of accounts published for 1832 and 1833, that the prices paid for property purchased within the burgh during these years, for widening and opening streets, amount to £29,428 16*s.* 9*d.*

The Revenue of the burgh in 1692, by a return made to the convention of royal burghs, was £279 4*s.* 6*d.* Its debt was £3,187 15*s.*; its losses are stated, at that time— REVENUE.

	£.	*s.*	*d.*
At law, with Lord Lauderdale, for seven years - -	1,666	13	4
Building bulwarks - - - - - - - -	1,686	2	$2\frac{8}{12}$
	£3,352	15	$6\frac{8}{12}$

Its revenue in 1788 was £2,820 8*s.* $8\frac{3}{12}$*d.*, according to a return made to Parliament in 1789.

The present ordinary Revenue of the burgh, arising from lands, houses, fishings, &c., feu duties, ground annuals, vicarage duties, multure-malt, interest of money, from petty customs, burgesses' entries, duty of 2*d.* Scots on the pint of ale, rent of shops belonging to ale duty fund, rent of kirk roods, and duty on coals paid to kirk fund, and church seat rents, is £7,011 11*s.* $3\frac{11}{12}$*d.* Evidence, p. 1. Appendix, No. 5.

There was also a casual revenue in 1833 of £528 4*s.* 11*d.*, making the total revenue of the year £7,539 16*s.* $2\frac{11}{12}$*d.* Evidence, p. 3.

Money borrowed, or the price of property sold, is not estimated as revenue.

There is a considerable part of the property belonging to the town, lying along the new streets, which has not yet been feued, and a part of it for which, though feued, the amount of feu duty to be paid has not yet been settled; these are both unproductive at present.

The Expenditure of the year 1833, ordinary and casual, exclusive of £3,821 10*s.* 4*d.* paid for property purchased, was £9,617 5*s.* 3*d.*, which exceeds the total income, ordinary and casual, by £2,077 9*s.* $0\frac{1}{12}$*d.* EXPENDITURE. Evidence, pp. 3, 4.

The expenditure of the town has for several years very much exceeded the revenue.

One of the joint town clerks has furnished the Commissioners with a statement of the affairs of Dundee, as he understood them, in 1830, by which it appears, that the estimated ordinary expenditure then exceeded the estimated ordinary revenue by £1,527 annually, the estimated ordinary expenditure being £7,935, the revenue £6,408, taking both, when not fixed, at an average. The income of the burgh has been increased since this time by £1,100, the interest of the price due by the Harbour Commission for the town's surrender of its right to the harbour dues; but still it is not sufficient to meet the expenditure. Returns to Parliament from 1827 to 1831. Evidence, p. 80.

The Commissioners have not had pointed out to them any source from which an increase of income may reasonably be expected, sufficient to meet the necessary expenditure of this rapidly increasing town, and to pay the interest of the debt.

The affairs of Dundee have been managed at a very great expense. The magistrates and council have had occasion to apply for three different local Acts of Parliament since the year 1825. The first of these, the Improvement Act, including plans and surveys, cost £1352 15*s.* 0*d.*; the second, the Ale Duty Act, cost £989; the expenses of the third, the Municipal Act, is not yet ascertained, but it is thought it will exceed that of the Improvement Act. Thus, within eight years, the town of Dundee has paid about £3,700 for Acts of Parliament, besides the expense of the Police Act assessed upon the inhabitants, and besides about £1,100 expended in opposing the Harbour Act. ADMINISTRATION. Evidence, p. 77. Parliamentary Returns, 1830 and 1831.

In 1828 there is a law and business account amounting to £582 18*s.* 0*d.*

DUNDEE.

In 1829, there is charged for law and business £1,390 10*s.* 6½*d.*, including a balance of £325 6*s.* 7*d.* due for the Dundee Improvement Act, which last being deducted, as already stated, under expense of Improvement Act, leaves £1,065 3*s.* 11½*d.*

In 1830, there is charged law and business, £256 18*s.* 1*d.*, including £33 4*s.* 6*d.*, balance of an account to the London solicitor of the burgh, probably for the Ale Duty Act, which being deducted, as already stated, leaves law and business, £223 13*s.* 7*d.*

In 1831, there is charged, law accounts, £442; anent appeal before the House of Lords, £200 14*s.* 3*d.*; making £642 14*s.* 3*d.*

In 1832, £612 16*s.* 10*d.* are charged for law accounts.

In 1833, the charge for law and business is £573 4*s.* 7*d.*

P. 423. It appears from the evidence taken before a Committee of the House of Commons in 1819, that the sums paid for law expenses by the magistrates of Dundee, from 1788 to 1818, from the burgh, hospital, and guildry funds under their charge, amounted to £4,316 16*s.* 10*d.*

There used to be an annual account for dinners at the election of magistrates, and at the examination of the schools, but this expense has not been incurred since 1830; and a salary of £100 per annum, paid to one of the joint clerks for attending to the town's business, has been withheld since that time.

TAXATION.

There are no Taxes levied by the magistrates of Dundee but the Petty Customs, and Ale Duty already mentioned, which is imposed by statute. They are levied over the whole ancient royalty, and none of them are levied over the territory annexed to the burgh by the Municipal Act passed in 1831.

The petty customs produced, for the year 1833, £759 10*s.* They appear, from the returns to parliament, to be farmed by eight persons, who must devote their whole time to the collection of them, or employ assistants. This tax must, therefore, be levied at a very great expense. It is a very general opinion in Dundee, that three times the amount that comes

Evidence, p. 12. into the town's treasury is collected from the inhabitants, and that the tax ought to be done

Evidence, p. 60. away, and an assessment laid on the inhabitants to supply the deficiency in the town's revenue which would thereby be created. The amount of the sums levied upon the different articles

Evidence, p. 12. are very small. The rates in the tables being stated in Scotch money, there is always a difficulty in ascertaining the amount in sterling money, which gives rise to many disputes in the collection. The incorporation of bakers state that a half-lippy of grain from each load is

Evidence, p. 52. 91. still levied on them by ancient usage for cleaning the High Street and market-places of the burgh, although now cleaned by the police establishment, for the expense of which they are assessed.

Cess.

The magistrates of Dundee levy the Cess or Land-tax payable by the burgh to Government. The amount of cess collected in Dundee, for the year ending Whitsunday 1832, was £566 19*s.* 11*d.*, which was expended as follows:

	£.	*s.*	*d.*
Paid to Exchequer	468	0	0
Collector's salary	60	0	0
King's mails	12	10	0
Stationery	5	0	0
Council officers	1	10	0
To cover bad debts	19	19	0
	£566	19	0

Evidence, p. 91. Besides the petty customs levied by the town, Lord Douglas levies market dues for eight days during the month of August yearly, which are much heavier than the town's customs, and very vexatious in the collection.

JURISDICTION.

The Jurisdiction of the magistrates of Dundee extends over the whole ancient and extended royalty, which is of very considerable extent, and includes all the suburbs and urban population in the neighbourhood of the burgh.

Productions, Nos. 5 and 6. Evidence, pp. 7, 84. Productions, No. 78. Productions, No. 8. Evidence, p. 20.

There are strong objections to including the whole territory within the parliamentary boundary under the same municipal jurisdiction with the burgh of Dundee; the parliamentary boundary extends, to the westward, beyond Lochee, a village about two miles from Dundee, and far beyond the extended royalty, and the intermediate space is open country. On the other sides of the town, the burgh boundary and the parliamentary boundary are very much the same.

Lochee contains a population of 3,300. There is no police there at present. It would be expedient to establish a police in Lochee suited to the size of the place, in connexion with the police of Dundee, and subordinate to it. Although an attempt to subject the landed estates lying between Dundee and Lochee to municipal government would be very much resisted, it might be proper to extend the jurisdiction of the Dundee police magistrates so far as to give effect to their warrants for apprehending criminals in Lochee, and over the intermediate territory.

There is a sheriff-substitute resident in Dundee, whose jurisdiction is cumulative with that of the magistrates within the royalty, and at the same time extends over the county of Forfar, which makes it less necessary to extend the burgh jurisdiction to Lochee than if there were no resident sheriff-substitute.

The magistrates of Dundee have the usual jurisdiction competent to magistrates of royal burghs; they are in the practice of trying questions of debt to any amount. The bailies sit

Productions, No. 12, pp. 3; 4. alternately a month each; the Bailie Court is held every Wednesday. Since the 1st January 1820, the civil cases brought into the bailie court have averaged, including undefended causes,

above 200 annually. The number of criminal cases in the magistrates' court has been only 16 since 1820.

Most of the petty offences committed within the burgh are now tried in the Police Court; and the sheriff-substitute tries the more important criminal cases. The town clerks act as assessors to the magistrates. It appears to be the opinion of inhabitants of Dundee well qualified to judge in the matter, that the civil jurisdiction of the magistrates should be done away. Evidence, p. 6. Evidence, p. 19.

The sheriff holds his court once a-week during session; he also holds a Small Debt Court, where cases not exceeding in value £8 6*s.* 6*d.* are tried, and the parties plead their own causes. The number of cases in dependence in the sheriff court in 1832 was 491, besides small debt causes; 289 of the 491 were defended. In 1832 there were 1,824, and, in 1833, 1,606 small debt causes decided by the sheriff-substitute in Dundee. Productions, No. 8.

The justices of the peace hold small debt courts once a fortnight in Dundee.

The dean of guild has an exclusive jurisdiction within the ancient royalty in possessory questions, and questions whether property is mutual or sole. He decides all disputes as to marches; and where a house is to be pulled down or built, it is necessary to apply to him for leave before commencing the operation. He has a cumulative jurisdiction with the sheriff over the extended royalty in the same class of cases, and he has a cumulative jurisdiction with the magistrates in cases of nuisance. He has no jurisdiction in cases of debt, but he gives decree for expenses incurred in his own court. The guildry clerk is assessor to the dean of guild. Evidence, p. 19.

PATRONAGE.

The magistrates have the appointment of the town clerks, (at present there are two conjunct town clerks), procurator fiscal, chamberlain, collector of cess, gaoler, and other city officers. The town clerk and procurator fiscal are appointed *ad vitam aut culpam;* the other officers hold their appointments during the pleasure of the council. The chamberlain, collector of cess, and gaoler, find security for their intromissions, and the faithful execution of the duties of their offices.

The salaries paid to town servants annually amount to £558 1*s.* 9*d.* This includes precentors, bell-ringers, and door-keepers for the churches, as well as other town servants. Appendix, No. 5.

There are five churches of the Establishment within the burgh of Dundee, of which the magistrates and council are patrons. When the Municipal Act, 1831, was obtained, the magistracy agreed to give the nomination of the clergyman, in the case of any vacancy, to the seat-holders in the district or church where such vacancy should occur. But they seemed to take little interest in an appointment which has since occurred; and it is doubted by some whether, as the magistrates and council are now chosen, it would not be better to restore the patronage of the churches to them. Evidence, p. 12.

The magistrates of Dundee have not the patronage of the schools. They are under the care of 20 directors, viz., the provost and four bailies of Dundee, and five other persons to be chosen by the town council, and 10 persons to be chosen by the subscribers to the institution. The magistrates are bound by the constitution of these seminaries, so long as they have right to levy the twopenny duties on ale and beer, to pay annually to the directors £338 17*s.* 10*d.*, being the amount formerly paid by the town in salaries to the teachers of the academy and other schools.

EXCLUSIVE PRIVILEGES.

The guild burgesses of Dundee enjoy the Exclusive Privilege of carrying on trade within the burgh. They are possessed of funds, secured upon heritable bonds, amounting, at Michaelmas 1832, to above £2,000. This fund is chiefly applied to giving pensions to decayed brethren, and the widows and children of decayed brethren. Productions, No. 9.

While the funds of the guildry were in the hands of the magistrates of Dundee, which was the case till lately, they had applied £40 or £45 per annum from them to the payment of ministers' stipends; and when the guildry obtained the management of these funds, it was under condition that this payment to the ministers should be continued so long as the magistrates choose to exact it.

The number of guild brethren at present is 750.

The clerk to the guildry is of opinion, that "a great majority of the most intelligent guild brethren of Dundee would approve of doing away with the exclusive privileges of all incorporations." Evidence, p. 13.

There are nine incorporated trades and three united trades of Dundee, all enjoying the exclusive privilege of exercising their crafts within the burgh.

The incorporation of Shoemakers consists of about 30 or 40 individuals, and their funds, derived chiefly from dues of intrants, yield about £20 per annum, which are employed in defending their rights if they get into lawsuits, and in giving assistance to decayed members and widows.

The property of the Hammermen is worth £3,000, burdened with £600 of debt, from which they derive an income of about £150 per annum, out of which they give allowances to their decayed members and widows.

The Bakers have property in mills, &c., worth about £5,980, after deducting the debts due by them.

The Fleshers have about £800 or £900, and they derive about £90 from the manure of their market-place, and £7 from church-seats yearly.

The funds of the Masons are valued in their books at £1,100; and the Wrights, after deducting debts, have about £1,300.

The Slaters value their property at £450.

DUNDEE.

The nine trades of Dundee have a general fund, producing about £300 per annum.

Evidence, p. 31. Evidence, p. 27. Evidence, pp. 65, 68, 70.

There is considerable diversity of opinion in Dundee with regard to the propriety of abolishing the exclusive privileges of the incorporations. On one side it is said, that if the exclusive privileges are done away, the incorporations will lose the income they derive from intrants, as no one will then enter with them; that it is hard, that while the present members have paid for the privilege of exercising their trades, strangers should hereafter be admitted to do so without paying; and that if the trades be thrown open, many unqualified persons will come into them, who will impose upon the public by insufficient work.

Evidence, pp. 14, 19, 22, 40, 51, 59.

On the other hand, some of the most intelligent individuals in Dundee hold an opposite opinion. They think the exclusive privileges of the incorporations of little or no advantage to the incorporations themselves, and very prejudicial to the community.

Evidence, p. 65.

One gentleman, extensively connected with the linen trade, in which there has been no exclusive privilege since the passing of the Act for the encouragement of manufactures in the reign of George II., states, that "it is the most flourishing branch of trade in Dundee; that it is now about two years since the bounty upon the exportation of linen was altogether taken away, and the trade has increased more rapidly since than it ever did before; and he is of opinion that the exclusive privileges of incorporations are neither of advantage to the community, nor to the incorporated trades themselves."

24 Geo. II. c. 31, s. 33.

The deacon of the glovers has not made up his mind upon the question of exclusive privileges, but he does not think they are any considerable inducement to enter his incorporation. There are eight members in it.

There are no operative members in the incorporation of bonnet-makers, therefore the exclusive privileges can be of no use to them.

Evidence, p. 72.

The deacon of the slaters, "considering the present state of the funds, (£450,) and the present average number of intrants, does not consider, that if the exclusive privileges were thrown open, it would materially affect the funds of his incorporation."

The evidence given in Dundee upon this question of exclusive privileges decidedly preponderates against them, and tends to show that it would be for the advantage of the community, and very little, if at all, prejudicial to the incorporations, to abolish them.

ELECTION OF MAGISTRATES AND COUNCIL.

Report Com. H. C., 1793; App. C. p. 49.

The Council of Dundee, till 1818, consisted of 20 members, including the Magistrates. In 1818, it was increased by the convention of royal burghs to 21, chosen as follows:—Out of leets made by themselves the council chose five merchant and three trades' councillors. The old and new council made leets for magistrates, copies of which were given to the trades, and the election of the magistrates was made by the old and new council, and nine deacons of the trades. By the municipal Act obtained in 1831, the boundary of the burgh was extended over the suburbs, and it was enacted, that seven councillors should retire from the council yearly, and that their places should be filled up by seven new councillors to be elected by the burgesses of the extended burgh; and that the magistrates, including the dean of guild, should be elected by the council. This constituted the constitution of the burgh of Dundee down to the date of the Burgh Reform Act.

The town council of Dundee still consists of 21 members. They are now elected according to the provisions of the Act 3 and 4 William IV. c. 76, and the dean of guild has a place in the council, *ex officio*. This is an innovation which the community do not seem to have wished for. It appears to be the almost universal opinion in Dundee, that it is not at all necessary or desirable that the dean of guild should be, *ex officio*, a councillor. The guildry consists of 750 of the most wealthy and influential members of the community. It appears certain that many of their number will always find places in council; and the person chosen their dean is besides almost secure of being elected a councillor, as he must be a popular man with the most influential part of the community; but the case is different with the trades. Many respectable tradesmen cannot afford to pay £10 for a house, and are excluded from any vote, and almost from any influence, in the election of the council. It is therefore a very general opinion in Dundee, that if any class of the community is entitled to a representative in council, it is the trades.

Evidence, pp. 9, 46.

Productions, No. 15.

The nine incorporated trades of Dundee have presented a memorial to the Commissioners, placing on very strong grounds the claim of their convener to a place in council.

Evidence, p. 9.

The election of councillors of Dundee takes place by wards. The propriety of the arrangement is disputed by some of the most intelligent inhabitants of the place, as likely to create separate interests, and jealousy in the council, and much trouble from double returns.

At the election in 1833, there being 20 councillors to be elected, the dean of guild being a councillor *ex officio*, seven councillors were chosen by the electors in each of the first and second wards, and six by those in the third ward.

In the year 1834, six councillors are to be elected, two in each ward.

In 1835 and 1836, the number to be elected will be seven, of whom three will be elected by the first ward, and two by each of the second and third wards; and all future elections will take place in the same manner in each period of three years following November 1836, in terms of the King's Proclamation of the 16th October 1833.

The propriety of this arrangement is disputed by a person of great experience. The election of commissioners of police in Dundee is made by £5 householders voting in eleven wards, and he thinks this system works better than that adopted for the election of magistrates. But we have not heard the same opinion expressed by any other individual; and a committee of the inhabitants and corporations of Dundee approved of the £10 qualification at a meeting held 17th March 1831.

Evidence, p. 91.

Productions, No. 17.

POLICE.

The Police of Dundee is regulated by statute passed in 1825, by which the town is divided

into eleven wards, and the provost, four bailies, dean of guild, the councillor to the guild, and the convener of the nine trades of the burgh, the sheriff-depute of the county of Forfar, and his substitute resident in Dundee, together with two general commissioners for each ward, are appointed general commissioners for the purposes of the Act.

There are also two resident commissioners chosen for each ward; both the general and resident commissioners are chosen by the persons occupying houses or other premises within their respective wards, valued at £5 and upwards of yearly rent.

To qualify a person to be elected general commissioner, he must occupy a house or other premises within the ward, of the value of £10 or upwards of yearly rent. To qualify a person to be elected a resident commissioner, he must possess a dwelling-house within the ward, valued at £5 or upwards of yearly rent.

The police establishment is quite inadequate to the extent of the town and its population. The superintendent of police has been represented as an active, intelligent, and in every respect meritorious officer, and the men employed under him are sober and regular in their habits, but their number is by far too small for the service upon which they are employed. Evidence, pp. 33, 34, 35, 85. Productions, No. 8.

The population of Dundee in 1821 was 30,575; by census 1831 it had increased to 45,555; it has been continually increasing since, and is supposed now to be nearly 50,000. To preserve order in a community of this magnitude, and to watch a territory of several miles in circumference, there are now allowed to the superintendent, from September to April, during the day, six patrolmen and two serjeants, and during the night three patrolmen, one serjeant, and 28 watchmen. During the summer months, only 20 night watchmen are allowed him. Experience has shown that this force is incapable of preserving the peace of the town; it has been at least on two occasions overpowered by a mob, and it ought without delay to be strengthened. Its inefficiency has been declared by a placard subscribed by the provost, and posted upon different parts of the streets of the burgh. This instrument is dated 11th February 1834. Mr. Millar, clerk to the general commissioners of police, is of opinion that the town is not half watched. Productions, No. 16.

There are two limitations in the present Police Statute of Dundee, upon the expense to be incurred in maintaining the establishment. First, The sum to be assessed on any individual cannot exceed one shilling per pound on the rent of his property if under £5, and one shilling and three-pence if it amounts to £5 or upwards. Second, Let the town extend ever so much, the total sum to be raised for paving, lighting, watching, and cleaning, cannot exceed £4,000; so that by every new house built in the town the assessment becomes less upon individuals, and the gross assessment becomes more and more inadequate to defraying the expense of the establishment necessary for an increased population.

By the theory of the Dundee Police Bill £4,000 should support an establishment suited to a population of 50,000 equally well as an establishment suited to a population of 35,000; but this has not proved true in practice, and it is necessary that funds should be immediately provided for at least doubling the watchmen of Dundee, and this for the daily purposes of police. A further force will be necessary for those emergencies which must be expected to occur in such a place; but that may be found, we have been told, by swearing-in as constables some of the most efficient Chelsea pensioners resident in the burgh and neighbourhood, and of the harbour porters, who, it is said, are a respectable body of men under good regulation, and would form an effective auxiliary police at a small expense, as they would require no pay except when called out on duty; a fund for paying them on such occasions must, however, be provided by the police assessment. Productions, No. 8, p. 3.

The debt due by the establishment, at 15th May 1833, was £4,187 4*s*. The assets set against it are almost entirely such as could not be parted with so long as the establishment is maintained. Productions, No. 13.

The four bailies and dean of guild sit alternately each a week in the police court; this is said to occasion great diversity in the degrees of punishment awarded for the same offences. Evidence, p. 85.

The magistrates and council, in the opinion of the greater number of the inhabitants of Dundee whom we have examined, ought, as now elected, to be general commissioners of police, as it is thought unnecessary to have two police establishments in the town. Evidence, pp. 12, 36, 48.

The gaol of Dundee, when visited by the Commissioners, was crowded with prisoners, and in the most loathsome state. It is much too small for such a town, and is quite incapable of affording proper accommodation for the number of prisoners likely to be committed to it. In consequence of a complaint since made by the Lord Advocate to the Court of Justiciary the magistrates have fitted up temporary accommodation for some of the prisoners in an old steeple, which so far relieves the gaol; but a new gaol, or a total alteration of the present, is indispensable. See Productions, Nos. 10 and 11.

The magistrates have it in contemplation to apply to parliament for an Act to enable them to defray by assessment the expense of building a new gaol; but as they propose to assess part of the county of Forfar as well as the burgh for that purpose, the measure will probably be opposed.

The Police Act provides for erecting a bridewell, but that has not yet been accomplished.

MORTIFICATIONS.

Besides the property and revenue belonging to the burgh, the magistrates and council have under their charge a Mortification of £240 for the entertainment of Two Bursars at St. Andrews, each of whom receive at present £4 16*s*. per annum; and a Mortification of £277 15*s*. 6$\frac{8}{12}$*d*. for a Catechist, the interest of which is now paid to one of the ministers of the established church. The magistrates and council are also executors of the late Miss See Accounts in Returns to the House of Commons.

DUNDEE.

Elizabeth Hallyburton, who destined the annual income arising from her estate to aid in the maintenance of Maiden Ladies, and which is regularly applied to that purpose.

HOSPITALS.

The date of the foundation of the Hospital of Dundee is unknown. On the 15th April 1567 Queen Mary granted to the magistrates, council, and community of Dundee, for behoof of the ministry and hospital, all lands, &c., which had belonged to any chaplainries, altars, or prebendaries, within the liberty of the town, with the lands which belonged to the Dominican and Franciscan friars, and the grey sisters, which were incorporated into one estate, to be called the Foundation of the Ministry and Hospital of Dundee. This charter was confirmed by James VI. in 1601.

The magistrates, council, deacons of crafts, and commonalty of Dundee, conveyed "all and haill the places, yardis, crofts, aikeris, rentis, formalis, annual rentis, and uyeris duties quhatsumever, quhilkis pertenis to ye grey friris, black friris, gray sisteris, chaplencies, choroisteris, and hebdomadaries of the said burgh," to the master of the hospital, and his successors in office, by a disposition dated in 1571, to be holden in free burgage.

Productions, No. 3.

The Earl of Crawfurd seems to have had some claim upon the subjects conveyed by the Queen to the town of Dundee for support of the hospital; and the magistrates entered into a transaction with him, whereby he agreed, by a minute of sale, for a certain price, to convey the subjects named in the minute, and which appear to be the same formerly held by the hospital, to Thomas Mann, master of the said hospital, and his successors in office, on behalf of the puir therein.

In fulfilment of the obligation in this minute, Lord Crawfurd in 1594 granted two charters, upon which the title of the hospital was completed by infeftment. The property of the hospital, though under charge, nominally, of an hospital master, is, in fact, under the administration of the magistrates of Dundee. The house has been allowed to fall down, and the funds belonging to it are now applied to the aid of poor burgesses.

The town of Dundee holds lands adjacent to the hospital lands; and it is doubtful whether part of the hospital property is not appropriated to the town's use. The boundary between their possessions is not well known.

Evidence before the Committee of House of Commons, p. 416. Mr. Riddoch.

The Act 42 Geo. III. c. 27, granted to the town of Dundee a duty of 2*d.* upon every pint of ale brewed and consumed within the town of Dundee and the suburbs. Part of this duty was appropriated by the Act to converting the hospital into a workhouse, which was not done. By the present Ale Duty Act, passed in 1827, it is enacted, that no part of the sums raised by it, or former Acts, is to be applied to the hospital.

See Account. Appendix, No. 7.

The income of the hospital, from 26th September 1831 to 31st July 1832, was £865 5*s.* 5*d.*; the expenditure, £797 3*s.* 2½*d.* £420 6*s.* 9*d.* was paid in pensions and donations to poor burgesses; £63 10*s.* in annuities; £98 2*s.* 10½*d.* was paid for ministers' stipends.

£8,538 6*s.* 7*d.* of the hospital fund is lent to the town of Dundee.

HARBOUR.

Harbour Account. Appendix, No. 9.

The Harbour of Dundee is under the charge of parliamentary trustees; the revenue for the year 1832-3 was about £10,000, but no part of it belongs to the burgh, their interest in it having been sold to the harbour trustees.

DOCUMENTS.

The following Documents accompany this Report:

1. Evidence relative to the Burgh of Dundee, September and October 1833.
2. Report regarding the Harbour of Dundee and its Revenues.
3. Copy Disposition Earl of Crawfurd to the Hospital, 1594.
4. Account of Cess levied upon the Burgh of Dundee for the year ending Whitsunday 1831.
5. Copy Answers for Lady Scott and her Husband to the Queries by the Commissioners.
6. Answers for Mrs. Anderson of Logie to the Queries by the Commissioners.
7. Letter Mr. Hunter of Blackness to the Commissioners.
8. Letter J. I. Henderson, Esq., Sheriff-Substitute, to the Commissioners, 24th December 1833.
9. Account of Guildry Funds at Michaelmas 1832.
10. Report by John I. Henderson, Esq., Sheriff-Substitute, Dundee, to the High Court of Justiciary.
11. Minute for the Provost and Magistrates of Dundee.
12. Answers to Heads of Inquiry issued by Commissioners.
13. Police Accounts, from Whitsunday 1832 to Whitsunday 1833.
14. Note of Cautionary Obligations incurred by the Town of Dundee, &c.
15. Memorial for the Nine Trades of Dundee.
16. Placard by Magistrates declaring the Inefficiency of the Police.
17. Minute of Meeting of Inhabitants of Dundee, March 1831.
18. List of Criminal Cases tried before the Sheriff-Substitute of Dundee, from 6th November 1833 to 10th April 1834, inclusive.
19. Memorial for the Incorporation of Bakers of Dundee.

JAMES CAMPBELL.

DUNDEE.

Since this Report was prepared, a representation, dated 30th August, 1834, has been made to us by the sheriff of Forfarshire, that he is not provided by the magistrates with sufficient accommodation for his court in the town-house of Dundee. To this representation answers have been given in by the magistrates, dated 18th September, 1834, accompanied by a letter from the provost to the sheriff of Forfarshire, dated 15th January, 1834. Productions, Nos. 20, 21, 22.

In the year 1831, in consequence of the increasing trade and population of the burgh, an additional sheriff-substitute for the county of Forfar was appointed by the sheriff to reside in Dundee. It does not appear that upon this occasion the council came under any obligation to provide accommodation for the sheriff court, further than by resolving to make arrangements "for giving the sheriff the use of the guildhall and adjoining apartments for holding his courts, so far as consistent with the purposes for which these apartments may be otherwise required." But it is undeniable that an additional substitute for Forfarshire had become necessary solely on account of the increased population of Dundee, and that it was for the benefit of the community of that town that the appointment took place. 1st August, 1831.

The sheriff has received the accommodation in the town-house pointed at in the resolution of the council, August 1, 1831; but it appears to us that it is not sufficient for his court, and that it ought to be increased; though it is not for us to determine at whose expense.

Additional Documents accompanying this Report:

20. Representation by the Sheriff of Forfarshire, 30th August, 1834.

21. Answers for the Magistrates and Council of Dundee to the Representation, 18th Sept., 1834.

22. Copy Letter Provost Kay, Dundee, to Mr. Sheriff L'Amy, 15th January, 1834.

JAMES CAMPBELL.

APPENDIX TO REPORT ON THE BURGH OF DUNDEE.

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APPENDIX No. I.—RECOGNITIO super LIBERTATIBUS BURGENSIUM de DUNDE, A. D. 1325.

ROBERTUS, Dei gratia Rex Scottorum, omnibus probis hominibus suis ad quos presentes litere peruenerint, Salutem: Sciatis quod constituimus Bernardum, Dei gratia Abbatem de Abirbrothoc, Cancellarium nostrum, et Alexandrum Fraser Camerarium nostrum, dilectos et fideles nostros locum nostrum tenentes, ad recognoscendum libertates quas Burgenses de Dunde habuerunt seu possiderunt tempore bone memorie domini Alexandri Regis Scotie predecessoris nostri vltimo defuncti et aliorum Regum Scotie predecessorum nostrorum, et ad retornandum nobis et concilio nostro ea que per ipsos in premissis recognita fuerint et inuenta. Quare vobis mandamus et precipimus quatinus dictis Cancellario et Camerario nostris tanquam locum nostrum, in premissis tenentibus intendentes sitis et respondentes. Teste meipso apud Abirbrothoc, xxij° die Junii, anno regni nostri vicesimo.

"Recognicio super libertatibus quas Burgenses de Dunde habuerunt seu possederunt tempore bone memorie domini Alexandri Dei gratia Regis Scottorum ultimo defuncti, et temporibus Regum Scottorum predecessorum suorum: facta apud Dunde die Martis in crastino natiuitatis beati Johannis Baptiste, anno gratie millesimo tricentesimo vicesimo quinto, coram venerabili patre domino Bernardo Dei gratia Abbate de Abirbrothoc et Cancellario Scotie, domino Alexandro Fraser Camerario Scotie, ad hoc plenam commissionem sub communi sigillo regni specialiter habentibus per juratos infra scriptos, videlicet: Alexandrum de Stratoun, Willielmum de Strabroke, David de Innerpefir, Patricium de Ogilwill, Johannem de Ogilwill, Henricum de Fethi, Patricium de Strivelyn, Jacobum de Stratoun, Johannem de Greinlay, Duncanum indicem Adam de Pilmore, et per sufficientes et fidedignos Burgenses de Berwico, de Abirdein, de ciuitate Sancti Andree, de Forfar, de Abirbrothoc, et de Monros, ad hoc iuratos et electos; per quos vnanimiter extitit veraciter recognitum quod prefati Burgenses de Dunde habuerunt et possederunt tempore Regis Alexandri predicti, et temporibus Regum Scottorum predecessorum suorum, eandem libertatem emendi et vendendi per aquam et per terram, sicut aliqui Burgenses per totum Regnum Scocie liberius aut quiecius habuerunt seu possederunt, videlicet, in mercato, in nundinis, in libero portu cum accessu nauium oneracione et exoneracione earundem, cum gilda mercatoria, et aliis libertatibus vniversis, sicut liberi burgenses regni semper ab inicio pacifice permanentes, inter quos camerarius regni iter suum et officium exercebat sicut in aliis burgis dicti regni. In quorum omnium recognitorum testimonium sigilla iuratorum predictorum sunt appensa.

APPENDIX No. II.—CARTA REGIS ROBERTI I., iv. Martii, A. D. 1327.

ROBERTUS, Dei gratia Rex Scottorum, omnibus probis hominibus tocius terre sue, salutem: Sciatis nos concessisse, et hac presenti carta nostra confirmasse, burgensibus nostris burgi de Dunde, heredibus suis et assignatis ac eorum successoribus in perpetuum, omnes libertates et jura, quas et que tempore bone memorie domini Willielmi Regis Scottorum, habuerunt et possiderunt, antequam idem Rex Willielmus Dauid fratri suo dictum burgum contulerat. Concessimus eciam et confirmauimus eisdem omnes libertates et consuetudines, cum libero portu, foro et nundinis, quibus vtebantur tempore bone memorie domini Alexandri Regis Scottorum predecessoris nostri vltimo defuncto, prout de mandato nostro speciali coram Cancellario et Camerario nostro, per probos et fideles homines patrie et burgorum circumquaque vicinorum, nuper fuerat recognitum apud Dunde: Damus eciam, et concedimus eisdem, ac presenti carta nostra confirmamus pro nobis et heredibus nostris in perpetuum, quod liberi burgenses nostri sint in dicto burgo, et omnimodas libertates habeant, exerceant, et possideant, et teneant, ita libere et plenarie, pacifice, et honorifice, sicut burgenses nostri de Berwico libertates suas habent, tenent, exercent seu possident, saluis libertatibus aliorum burgorum: Et quod liberi sint et quieti per totum regnum nostrum de tholoneis, pontagiis, passagiis, muragiis, panagiis, canagiis, lastagiis, riuagiis, et picagiis, et de tota vendicione sua, achato et rechato, et ab omnibus custumis de bonis suis propriis prestandis, nova custuma nostra que dicitur maletort duntaxat excepta. Volumus eciam et concedimus, ut omnes in dicto burgo manentes, qui cum dictis burgensibus nostris ad forum comunicare voluerint, comunicent cum eis ad auxilia nostra reddenda et alia quecunque onera supportanda,

cuiuscumque homines sint, exceptis illis qui permiura regalitatis libertates suas huc usque vsi sunt et suis tenentibus quibuscumque. Concedimus eciam et confirmamus eisdem, vt habeant gildam suam mercatoriam adeo libere in omnibus, sicut burgenses nostri de Berwico gildam suam mercatoriam liberius habent seu possident: Et quod omnes venientes ad forum dicti burgi, seu eciam ad nundinas eiusdem, firmam pacem et proteccionem nostram, eundo, morando, et redeundo, habeant in perpetuum. Et firmiter prohibemus nequis eis malum, molestiam, iniuriam, seu grauamen aliquod inferre presumat iniuste, super nostram plenariam forisfacturam. Prohibemus insuper ne quis infra vicecomitatum de Forfar emat lanas vel corea preter burgenses de Dunde: Et quod nullus mercator extraneurs infra dictum vicecomitatum, vel in eodem burgo de Dunde, aliquam mercaturam emat nisi a predictis burgensibus dicti burgi super nostram plenariam forisfacturam saluis libertatibus aliorum burgorum dicti vicecomitatus, Si vero aliquis mercator inuentus fuerit emens lanas vel corea aut alias mercaturas alio sub modo in dicto vicecomitatu vel in burgo de Dunde, corpus eius per burgenses nostros de Dunde predictos capiatur et detineatur donec de eo percipimus voluntatem nostram, et bona sua sic empta ad burgum de Dunde predictum conducantur, et burgensibus eiusdem burgi pro escaeta efficiantur. Prohibemus insuper ne quis mercator extraneus obuiam eat mercatoribus venientibus per terram vel per aquam cum mercandisis suis, quousque ad predictum burgum venerint et mercimonia sua ibidem vendicioni exposuerint, sub pena omissionis rei empte, ad vsum dictorum burgensium applicandi et sub pena carceris, a quo sine graui castigatione non euadat. Et quod nullus extraneus mercator vendat vel emat aliquas mercaturas, que tronari vel ponderare debet nisi per stateram, vel tronam nostram sub forisfactura rei sic empte vel vendite vsibus dictorum burgensium applicande. Volumus eciam et concedimus quod nullus mercator extraneus vendat aliquas mercaturas in dicto burgo, nisi in grosso et hoc debitis temporibus limitatis, secundum quod consuetudo fuit tempore Alexandri Regis Scottorum predecessoris nostri vltimo defuncti firmiter que prohibemus ne aliquis de regno nostro, infra burgum vel extra, burgenses de dicto burgo de Dunde, namet seu distringat pro aliquo debito plegiagio vel forisfacto nisi inde fuerit debitor principalis vel plegius. Has autem libertates prescriptas eisdem burgensibus, heredibus suis et suis assignatis et eorum successoribus dedimus, concessimus, et hac presenti carta nostra confirmauimus, pro nobis et heredibus nostris, ac firmam pacem nostram et protectionem in perpetuum firmiter inhibentes nequis eas infringere aut eis contrauenire, malum, molestiam, iniuriam, seu grauamen eisdem burgensibus inferre presumat iniuste, super nostram plenariam forisfacturam decem librarum. In cuius rei testimonium presenti carte nostre sigillum nostrum precipimus apponi; Testibus Willielmo, Johanne, Johanne et Rogero Sancti Andree, Glasguensis, Morauiensis, et Rossensis, Dei gratia Episcopis, Bernardo Abbate de Abirbrothoc Cancellario nostro, Hugone Comite de Ross, Jacobo Domino de Douglas, Roberto de Lawedir, Willielmo de Montefixo, militibus, apud Edeneburgh, quarto die Marcii, anno regni nostri vicesimo secundo.

APPENDIX No. III.—CARTA REGIS DAVID II., A. D. 1359.

DAUID, Dei gratia Rex Scotorum, omnibus, &c.:—Sciatis nos, de consilio et ordinatione proborum regni, inspecta nostra utilitate, concessisse, et ad feudifirmam dimississe, et hac presenti carta nostra confirmasse, burgensibus nostris et civitati burgi de Dunde, dictum burgum nostrum de Dunde cum pertinentiis, tenendum et habendum dictis burgensibus et civitati supradicte, heredibus suis et assignatis, et eorum successoribus, in perpetuum de nobis et heredibus nostris in feudo et hereditate, in libero burgagio per omnes rectas metas et diuisas suas: cum molendinis, aquis piscariis, minutis custumis, tholoneis, curiis, ponderibus, mensuris, et cum libero portu, foro, nundinis, et mercato, et cum omnibus aliis libertatibus, commoditatibus, aysiamentis, consuetudinibus, et cum pertinentiis suis quibuscunque tam non nominatis quam nominatis ad dictum burgum spectantibus seu quoquomodo spectare valentibus in futurum, adeo libere quiete plenarie bene et in pace sicut burgenses nostri de Berwico super Twedam, Edinburgh et de Aberden, burgos suos habent tenent seu possident. Reddendo inde nobis annuatim in cameram nostram dicti burgenses heredes sui et assignati, ac eorum successores, viginti libras Sterlinenses tantum ad duos anni terminos, viz., ad festum Penticostes et Sancti Martini in hyeme per equales portiones, pro omni alio servitio exactione consuetudine seu demanda, &c. Volumus et concedimus ut omnes in dicto burgo manentes, qui cum burgensibus dicti burgi nostri comunicare ad forum voluerint, communicent cum eisdem, et ad nostra auxilia reddenda solvere teneantur, et omnia alia onera cum dictis burgensibus nostris supportanda per eosdem compellabantur. Preterea volumus et concedimus ne quis infra vicecomitatum de Forfar emat lanas, polles, coria, preter burgenses nostros de Dunde, exceptis illis qui per nos et predecessores nostros de libertate emendi per cartam infeodantur. Volumus etiam et concedimus quod dicti burgenses nostri nulli de solutione dictarum viginti librarum aliqualiter respondeant nisi tantum camerario nostro Scotie qui pro tempore fuerit. Volumus insuper et concedimus quod dicti burgenses nostri, heredes sui et assignati, et eorum successores, libere et sine impedimento alicujus cujuscunque conditionis extiterit in campis moris maresiis et aliis locis quibuscunque ad dictum burgum infra et extra pertinentibus, seu in futurum pertinere valentibus tam sub terra quam supra terram possint omnimodam culturam facere, mansiones et edificia construere, focale fodere, et omnes alias quascunque commoditates exercere, perficere, et ordinare, prout melius viderint expedire Volumus insuper et concedimus quod dicti burgenses nostri, heredes sui et assignati, et eorum successores, ita liberi sint ad emendum omnimodas mercaturas infra Villam de Cuper in Fyff, et ad eas libere abducendas sine impedimento cujuscunque, sicut liberius fuerunt temporibus aliquorum predecessorum nostrorum. Insuper volumus quod nullus justiciarius, vicecomes, seu constabularius, vel aliquis alius minister regni nostri cujuscunque conditionis fuerit seu status, super observatione, cognitione, et impletione presentis concessionis nostrique infeodationis aliqualiter cognoscat ut supra defectibus ejusdem se intromittant, nisi tantum camerarius noster Scotie qui pro tempore fuerit, exceptis illis que vitam et membra tangunt. Ita tamen qui quicunque super aliquo defectu vel delicto legaliter convictus fuerit, penam hujusmodi criminis in persona propria vel in bonis subire teneatur, sic quod nullus propter alterius debitum forisfactum puniatur vel gravetur, presentibus concessionibus nostris et infeodatione in suo robore firmiter in perpetuum duraturis. In cujus rei testimonium, &c., testibus, &c., apud Perth, xx° die , anno regni nostri trigesimo.

DUNDEE.

No. IV.—VALUATION of PROPERTY belonging to the TOWN of DUNDEE, 24th September 1833.

	£.	s.	d.	£.	s.	d.
Property at Fountainbleau, £60 per annum, at 20 years' purchase	1,200	0	0			
Ditto at Stob's Muir, with servitude	400	0	0			
Upper Chapelshade Gardens, north side of Upper Dudhope-road, 2 acres, at 4*s.* 6*d.* per fall	1,440	0	0			
Ditto, ditto, not feued, south side, 5¼ acres, 5*s.* ditto	4,200	0	0			
Dudhope Park, west side of railway, 5½ ditto, 3*s.* 6*d.* ditto	3,080	0	0			
Lower Chapelshade Gardens, east side of railway, 4½ ditto, 5*s.* 6*d.* ditto	3,960	0	0			
Ditto ditto, west side of ditto, 5½ ditto, 5*s.* ditto	4,400	0	0			
Ditto ditto, west side of Newtyle-road, 2¾ ditto, 5*s.* ditto	2,200	0	0			
68 Stances in meadows, as delineated on plan, 35 feet each, £12 per stance	16,320	0	0			
Part of Little Meadows, not included in plan of Reform-street	2,000	0	0			
22 Stances in Reform-street, not feued, £40 per stance per annum	17,600	0	0			
11 ditto in Lindsay-street, west side, £10 do. do.	2,200	0	0			
One ditto in North Union-street, east side, £20 ditto ditto	400	0	0			
383 feet of front stances, west side of South Union-street, 15*s.* per foot per annum	5,745	0	0			
440 feet of ditto, east side ditto, 12*s.* ditto ditto	5,280	0	0			
555 feet ditto, west side of Earl Grey Dock, and fronting Ferry harbour, 10*s.*	5,550	0	0			
125 feet ditto, Green-market, 15*s.* per foot per annum	1,875	0	0			
220 feet ditto, Butcher-row, 10*s.*	2,200	0	0			
Property at Culloden	750	0	0			
Shops below town-house	1,660	0	0			
Police-office and meal-market	700	0	0			
Part of old house, top of School Wynd	150	0	0			
Property in Nethergate, east side of Tally-street	1,600	0	0			
Ditto in Rennie's Close	80	0	0			
Ditto in South Tay-street, east and west sides	250	0	0			
Ladywell Park	1,000	0	0			
Property in Bruce's-entry, Wellgate	347	0	0			
Public Warehouses, north side of Earl Grey Dock	3,500	0	0			
Property, top of Seagate	300	0	0			
Ditto, Castle-hill	1,200	0	0			
Ditto, Overgate, Windmill-brae	110	0	0			
				91,697	0	0
Feu Duties and Ground Annuals, payable to the Town of Dundee:						
Hillton feu and kain	10	17	9			
Snuff-mill at Dighty Water. William Sandeman.	5	0	0			
Stances at West Port. A. Kermath	4	0	0			
Bonnet-makers' Croft. Bonnet-maker trade	0	17	0			
Seaman's acres. Seaman fraternity	0	10	0			
Yard in Buckle-maker Wynd. Weaver trade	0	8	6			
Infirmary ground. Treasurer to Infirmary	0	8	6			
Mill at Dighty Water. Dyer trade	0	8	4			
Black's Croft. Nine trades	0	8	4			
Kirk Fabric. Kirk factor	0	7	6			
Poor widows' acres. Poor widows' fund	0	2	6			
Mrs. Rattray's property at Dens. Kinmond & Co.	0	1	8			
Poor's acres. Charles Roger	0	1	8			
Cold-side. Thomas Davidson	0	1	0½			
Baldovan-mills, Dighty Water	8	6	8			
Five lots feued, Upper Chapelshade Gardens	53	6	3			
Railway Company	25	0	0			
At 20 years' purchase	110	5	8½	2,205	14	2
Ground annuals, payable to the town of Dundee:						
East side of Union-street, per annum	229	10	0			
Ground at Dock-street, and bottom of Castle-street, east side	427	0	0			
Ditto, east side of Lindsay-street	170	10	0			
Ditto, east and west sides of Reform-street	428	5	0			
Baker's kiln. Baker trade	0	1	0			
Old English Chapel, John Alison	0	1	0			
James Robertson's Yard. Seaman fraternity	0	0	4			
Gas Light Company, annual payment for opening streets	20	0	0			
Carried forward	£1,275	7	4	93,902	14	2

	£.	s.	d.	£.	s.	d.
Brought forward . .	1,275	7	4	93,902	14	2
At 20 years' purchase				25,507	6	8
Salmon-fishings belonging to the town of Dundee, rent £124 per annum, at 20 years' purchase . .				2,480	0	0
Paid for 30 shares of Dundee and Newtyle Railroad, £50 per share, value uncertain.				121,890	0	10
Paid for shares of the Dundee ferries £800, value uncertain.						
Property belonging to the Kirk Fabric.						
Land called Kirk-roads	1,500	0	0			
Feu duty, £2 17s. 6d. per annum, at 20 years' purchase	57	10	0			
				1,557	10	0
				£123,447	10	10

Dundee, 24th September 1833. (Signed) JAMES BLACK, Architect.

No. V.—ACCOUNT of PROPERTY alienated by the BURGH of DUNDEE, from Martinmas 1792, to September 1833.

					£.	s.	d.	£.	s.	d.
1792—3.	Ground sold by public roup at New-street, between Overgate and Tod's Burn, at the Ward, viz.—									
	William Yeaman, one lot west side				34	0	0			
	James Doctor, one lot east side				70	0	0			
	James Berry ,, ,, ...				63	0	0			
	Ditto ,, ,, ...				49	0	0			
1795—6.	John Simson Mason agreed on price of a piece of ground, and access to it from North Tay-street, conform to sederunt of council . . .				25	0	0			
1797.										
Feb. 2.	Alexander Riddoch, one lot of ground by public roup			Castle-street.	656	0	0			
Nov. 11.	,, ,, rock ,, .				158	0	0			
	,, ,, ,, ,, .				152	0	0			
1798.										
May 15.	Thomas Bell, two lots of ground ,, .				580	0	0			
	James Stewart ,, ,, .				450	0	0			
1799.										
Nov. 11.	Alexander Riddoch, one lot of ground ,, .				300	0	0			
Nov. 11.	,, ,, ,, .				225	0	0			
1800.										
May 15.	James Stewart ,, ,, ,, .			Castle-street.	150	0	0			
	Robert Doig ,, ,, ,, .				270	0	0			
	George Marshall ,, ,, ,, .				100	0	0			
1800—1.	Dundee Banking Company ,, ,, .				225	0	0			
1801—2.	Andrew Peddie ,, ,, ,, .				192	0	0			
	James Stewart ,, ,, ,, .				142	0	0			
	John Peter, two lots on west side of North Tay-street				56	0	0			
	George Gray, for a small piece of ground at west end of Flesh-market				60	0	0			
1805—6.	Patrick Duncan, for a piece of ground at west side of Burial Wynd, given up to him per minute of council of 22nd May				16	0	0			
1806—7.	Mr. Riddoch, for lots eight and nine, Castle-street .				350	0	0			
1814—15.	Andrew Peddie, house in Overgate . . .				308	0	0			
	John Watson, house in Murraygate . . .				237	8	0			
1819—20.	Mrs. Scrymsoure, for ground on west side of Tay-street				125	0	0			
1821—2.	Rock at Craig, and site of Boat harbour, sole trustees of the ferries across the Tay, per minute of council, 2nd January 1822				250	0	0			
1823—4.	Building stance and meeting-house in Barrack-street, sold to Thomas Smellie—less proportion of expense of disposition				38	13	4			
1828—9.	Baldovan-mills, sold baker trade . . .				4,000	0	0			
1831—2.	Public seminaries, price of ground sold for site .				1,500	0	0			
1832—3.	Feu duty of Baldovan-mills, sold baker trade .				1,808	17	4			
1828—33.	Ground in Union-street, viz., nine lots on west side, sold for yearly feu duties, amounting to . .				319	15	0			
	Six lots on east side, sold for ground annuals, amounting to				229	10	0			
	Ground in Lindsay-street, viz., six lots and a small angular piece of ground, sold for ground annuals, amounting to				91	10	0			
	Ground in Reform-street, viz., eight lots sold for ground annuals, amounting to . . .				428	5	0			
	Carried forward . .							£13,659	18	8

DUNDEE.

		£.	s.	d.	£.	s.	d.
1828—33.	Brought forward	13,659	18	8			
	Ground at Wet Dock, sold for ground annuals, amounting to	427	0	0			
18 3.	Ground in Lindsay-street, viz., seven lots sold for ground annuals, amounting to	79	0	0			
	Feu duties of nine lots of ground, west side of Union-street, amounting to £319 15s. per annum, sold for £7,120, payable at Martinmas 1833						
		£14,165	18	8			

Revenue of the Town of Dundee.

Rents.	£.	s.	d.	£.	s.	d.
Chapelshade Gardens	222	12	5			
N.B. Five lots of ground in the Upper Chapelshade Gardens have been recently feued for feu duties, amounting together to £53 6s. 3d.						
Quarry at Windmill-brae	120	0	0			
Dudhope Park	24	8	8			
Stob's Moor	10	0	0			
Flesh-market and slaughter-house	90	0	0			
West division of flesh-market	5	0	0			
Malt-mill at Dighty Water	60	0	0			
Timber-yards at Craig	67	0	0			
Coal-yards at Lady-well	26	0	0			
Grass ,,	2	0	0			
Coal-yards at Fish-market	57	0	0			
Ship-building yards and public warehouse	300	0	0			
Ground at foot of Castle-street	13	0	0			
Gas Light Company, for opening streets	20	0	0			
Enclosed ground at West-shore	126	0	0			
Ditto ditto Little Meadows	58	10	0			
Houses and shops	450	9	0			
Warehouses	191	10	0			
Meadows' grass	16	0	0			
Salmon-fishings	124	0	0			
				1,983	10	1
Feu duties	31	19	6¾			
Ground annuals	1,255	7	4			
Vicarage duties	3	5	6			
Interest on debts due to the town	1,110	0	0			
Petty customs	759	10	0			
Freedoms	114	0	0			
Multure malt	33	7	3			
Twopenny duty on ale and beer, brewed and imported	604	2	7¾			
Twopenny duty, rent of shops	55	0	0			
				3,966	12	2½
Kirk Fabric.						
Feu duty	2	17	6			
Seat rents	563	0	0			
Rent of Kirk Roods	32	0	0			
Dues on burgesses	1	6	8			
Dues on coals	69	15	4			
				668	19	6
St. David's Church, seat rents				392	9	6
				£7,011	11	3½

The following Properties also belong to the town of Dundee, but no revenue is at present derived from them, viz.—

68 Stances for houses in the meadows, laid out according to a plan.
10 ditto on the west side of South Union-street.
1 ditto east side of North Union-street.
23 ditto in Reform-street.
Property west side of Lindsay-street.
Ground in Chapelshade Gardens, feued to the Dundee and Newtyle Railway Company, but for which no feu duty has yet been paid, nor any feu contract entered into.
30 Shares of the Dundee and Newtyle Railway.

Ordinary Expenditure.

Town.	£.	s.	d.	£.	s.	d.
Stipends	463	9	7			
Salaries and payments for education	326	2	2⅝			
Cess, feu duty, &c.	99	7	11½			
Convention and general assembly	30	10	6			
Salaries to town servants	394	8	8			
Carried forward	1,313	18	10½			

	£.	s.	d.	£.	s.	d.
Brought forward	1,313	18	10½			
Accounts to tradesmen	1,037	16	7			
Interest on bank account	50	4	11			
Annuities (now £22)	72	0	0			
Law accounts	729	17	3			
Expenses of criminal prisoners, &c.	286	3	6			
Promiscuous expenses	453	13	2½			
Casual expenditure	569	18	1			
				4,513	12	5¼
Kirk Fabric.						
Stipends	516	8	4			
Communion expenses	35	5	9			
Interest	79	7	6			
Cess, feu duty, &c.	2	3	1			
Annuity	150	0	0			
Salaries	92	14	6			
Accounts to tradesmen	107	14	7			
Promiscuous expenses	28	5	6			
				1,011	19	3
St. David's Church.						
Stipend	275	0	0			
Interest	52	0	0			
Communion expenses	10	14	2			
Salaries	12	0	0			
Promiscuous expenses	17	8	6			
				367	2	8
Twopenny Duty.						
Interest on debts due by the town charged against this fund	3,074	2	8			
Stipends	50	0	0			
Salaries and payments for education	12	15	6⅝			
Collector's salary and expenses attending collection	43	11	8			
Promiscuous expenses	4	5	0			
				3,184	14	10⅝
				£9,077	9	3

MINISTERS' STIPENDS.

	£.	s.	d.	£.	s.	d.
Dr. M'Lachlan.						
Town	10	2	6			
Ditto for lands of Dudhope	21	11	6			
Ditto for other lands	1	4	6			
Twopenny duty	16	13	4			
Kirk Fabric, for lands	8	13	0			
Hospital ,,	11	17	3			
				70	2	1
Dr. Adie.						
Town	190	11	1			
Kirk Fabric	40	0	0			
Twopenny duty	16	13	4			
Hospital	13	1	8			
				260	6	1
Dr. Macvicar.						
Town	240	0	0			
Twopenny duty	16	13	4			
Hospital	8	2	1			
				264	15	5
Dr. Peters.						
Kirk Fabric	222	15	4			
Hospital	23	6	8			
The interest of £277 15s. 6⅝d. mortified for a catechist, and which is included in the interest charged to account of the twopenny duty	11	2	2			
				257	4	2
Mr. Thomson.						
Kirk Fabric.	245	0	0			
Hospital	15	0	0			
				260	0	0
Mr. Tod.						
St. David's Church	275	0	0			
				275	0	0
				£1,387	7	9

DUNDEE.

SALARIES OF OFFICERS APPOINTED BY THE TOWN COUNCIL.

	£.	s.	d.	£.	s.	d.	
Provost	3	17	9				Town.
Town clerks	15	0	0				,,
Town chamberlain	120	0	0				,,
,,	20	0	0				Kirk Fabric.
,,	10	0	0				St. David's Church.
,,	25	0	0				Twopenny Duty.
,,	25	0	0				Hospital.
				218	17	9	
Council officer, J. Miln, jun.	24	0	0				Town.
Town's officers, viz. W. M'Kay	24	0	0				,,
,, T. Hardy	24	0	0				,,
Gaoler, Colin M'Ewen	70	0	0				,,
Gaol turnkey, J. Kemlo	40	0	0				,,
Gaol watchman, T. Mathew	27	6	0				,,
Chaplain to gaol, Mr. M'Allister	25	0	0				,,
Surgeon to ditto, W. Dick	15	0	0				,,
Inspector of markets, J. Miln	10	10	0				,,
Ringer of town's bells, J. Kemlo	3	0	0				,,
				262	16	0	
Ringer of church bells, J. Scott, jun.	6	0	0				Kirk Fabric.
,, ,,	6	0	0				Town.
Keeper of town's clocks, W. Young	8	8	0				,,
Precentors to churches, viz.							
William M'Nab, Old Church	10	0	0				,,
,, ,,	10	0	0				Kirk Fabric.
William Crabb, South Church	15	0	0				,,
Peter Roy, Cross Church	8	0	0				,,
John Angus, Steeple Church	8	0	0				,,
G. Campbell, St. David's Church	8	0	0				St. David's Church.
Door-keepers to town's churches	18	0	0				Kirk Fabric.
,, to St. David's	4	0	0				St. David's Church.
				101	8	0	
				£583	1	9	
Deduct paid by Hospital				25	0	0	
				£558	1	9	

BURSARIES UNDER THE PATRONAGE OF THE TOWN COUNCIL.

1st. Guild's Mortification.

Dr. William Guild, by deed dated 19th December 1656, mortified a sum equal to £240 sterling, and presently in the hands of the town, for the entertainment of Bursars at St. Leonard's College, St. Andrews.

Under this mortification there are at present two Bursars, viz., Robert Millar and William Martin, each of whom receives £4 16s. yearly, being one-half of the interest of the sum mortified, at the rate of four per cent. This interest, as well as the interest of all the other debts due by the town, is charged to account of the twopenny duty.

2nd. Lawson's Mortification.

Mr. John Lawson is the mortifier: the date of the mortification is unknown, but the Court of Session, by interlocutor of date 1st November 1728, in an action of multiplepoinding, preferred the College of St. Andrews to the other competitors. The sum mortified is two thousand merks, presently in the funds of the college, and the produce is directed to be given for the education of one Bursar, of the name of Lawson or Gray, at St. Leonard's College.

Dundee, September 24, 1833. This is the state of accounts referred to in my declaration of this date. (Signed) W. B. BAXTER.

Mortification for a catechist, principal sum £277 15s. $6\frac{8}{12}$d., the interest of which is paid to one of the ministers of the established churches, (now Dr. Peters,) as part of his stipend.

(Signed) W. B. B.

No. VI.—HOSPITAL FUND.

ABSTRACT of the RECEIPTS and EXPENDITURE of the HOSPITAL FUND, from 31st July 1832 to 6th August 1833.

RECEIPTS.

	£.	s.	d.
Dues on burial-ground	339	19	7
Feu duties	333	6	$11\frac{8}{12}$
Ground annuals	8	13	$5\frac{8}{12}$
Altarages	1	10	$0\frac{4}{12}$
Rent of heritable property	97	1	0
Carried forward	780	11	$0\frac{8}{12}$

	£.	s.	d.
Brought forward	780	11	0 3/12
Interest	221	6	8
Dues on coals	69	15	4
Dues on burgesses	0	10	8
Arrears of revenue recovered	7	11	8
Dundee Bank at credit of account on 31st July 1832	258	1	7
Balance at 31st July 1832	0	19	0 3/12
	£1,338	15	11 1/12

EXPENDITURE.

	£.	s.	d.
Pensions and donations	557	11	10
Stipends	71	7	8
Salaries	72	7	2 3/12
Annuities	26	0	0
Accounts to tradesmen	114	2	8½
Promiscuous expenses	15	17	11
Communion expenses	32	15	8
Sextons' wages	124	14	10
Dundee Bank at credit of account, 6th August 1833	322	4	11
Balance at 6th August 1833	1	13	2 1/12
	£1,338	15	11 1/12

State of Property, &c., belonging to the Hospital of Dundee, at 6th August 1833.

Property of hospital ward, of which part has been feued.

Property of Stirling's Park.

Money lent to the town of Dundee per bonds, £8,533 7*s.* 6*d.*

The above is a statement of the Receipts and Expenditure of the Hospital Fund, from 31st July 1832, to 6th August 1833, and to the best of my knowledge and belief is correct.

(Signed) W. B. BAXTER.

No. VII.—TABLE of the PETTY CUSTOMS leviable by the MAGISTRATES and COUNCIL of DUNDEE, in virtue of the CHARTERS and RIGHTS of the BURGH.

	Scots. s.	d.
Dues to be paid by freemen and unfreemen:		
That there be paid for each boll of inland victual made use of within this burgh and liberties thereof, and that by freemen as well as unfreemen, half a lippie for each boll, except oatmeal carried to gentlemen living on their rents, for the use of their families.		
For each boll of victual imported by sea by freemen	0	4
Boll of victual imported by sea by unfreemen	0	8
Boll of victual exported by sea by freemen	0	2
Boll of victual exported by sea by unfreemen	0	4
The above by and attour the usual shore-dues.		
For each boll of meal and other victual at the port	0	2
Dues to be paid by unfreemen, for the following particulars, when brought in by them:		
Each horse or staig brought to be sold at markets or within the liberties of the town, and no back-custom	0	2
Each sheep or goat brought to be sold, and no back-custom	0	4
Each ox or cow, brought to the town, killed or not killed, to be sold	0	6
Sheep, lamb, kid, or goat, killed or not killed	0	3
Calf or sow	0	6
Pig or grise	0	3
Goose or turkey	0	6
Dozen cocks, capons, hens or ducks to be sold	1	6
Dozen chickens	0	6
Dozen of pair of pigeons	0	6
Dozen of eggs	0	2
Horse-load of dry fish or speldings	1	0
Salmon brought into the town to be sold	0	6
Horse-load of cockles or mussels	0	6
Dozen of lobsters	0	3
Dozen of partons	0	3
Thousand of oysters	2	0
Stone of butter	1	8
Stone of cheese	1	0
Pint of honey	0	6
Load of herrings either brought in or carried out	0	6
Load of berries or nuts, besides the gatepenny	1	0
Boll of lintseed or hempseed, in place of ladles, besides the gatepenny	1	0
Boll of rapeseed, sixteen pennies, and so in proportion for lesser quantities of all these seeds; the shore-dues to be paid besides, if exported	1	4
Grilse	0	3
Dozen of made shoes	2	0

DUNDEE.

	Scots. s.	d.
Each dozen of bullocks' hides, dressed	12	0
Dozen of undressed ditto	6	0
Dozen of calves' hides, dressed	4	0
Dozen of undressed ditto	2	0
Dozen of sheep-skins	1	0
Hundred-weight of gingerbread	2	0
Cart-load of woollen cloth	12	0
Horse-load of ditto	6	0
Cart-load of muslins and printed goods	24	0
Horse-load of ditto	12	0
Sack of chaff	0	6
Cart-load of rags	4	0
Horse-load of ditto	2	0
Mett of fruit	2	0
Dozen of dry fish, ling or cod, carried out	2	0
Hogshead of tobacco	4	0
Cart-load of greens and other vegetables	1	0
Barrow-full of ditto	0	3
Bundle of grey paper	0	3
Every six pints of milk brought into town and so in proportion for larger quantities.	0	3

N. B. All milk set per quarter to the inhabitants of Dundee not to be subject to the above payment.

Each dozen of lambs' or kids' hides	1	0
Dozen of hares' or rabbits' skins	1	0
Horse, dog, otter, or fummard's hide	0	6
Seal or brock's hide	0	6
Stone of wool	2	0
Webb of plaiding of twenty double ells	1	0
Plaid	0	6
Horse-load of stockings	4	0
Man's load of ditto	2	0
Bed-covering	0	6
Web of milled cloth of any kind for sale	0	6
Stone of lint or hemp	1	0
Spindle of yarn, all consigned to freemen	0	3
Web of bleached linen	0	6
Web of Osnaburgh	1	0
Sheeting web and shirting	1	0
Common yard-wide web	0	6
Web of harn	0	6
Load of iron girdles	2	0
Pound of bees'-wax	0	3
Horse-load of peats	0	6
Cart-load of ditto	1	0
Cart-load of timber	1	0
Pair of harrows	0	6
Horse-load of riddles, sieves, and caps	1	0
Cart-load of oxen-bows, forks, hafts, and thrashing-trees	4	0
Cart-load of bark	1	0
Piece of stuff (camblet)	0	6
Load of wands	0	6
Hamper of earthenware	1	0
Cart-load of slates	1	0
Cart-load of hay or straw	1	0
Cart-load of broom	0	6
Cart-load of heather	1	0
Horse-load of ditto	0	3
Horse-load of besoms	0	3
Chapman's pack on his back for sale	1	0
Chapman's pack on horseback for ditto	2	0
Chapman, not exposing his goods for sale, to pay at the port or craig for a horse-pack, in name of gatepenny	1	0
Chapman for a back-pack not to be sold	0	6
Boll of limestone	0	6
Stone of rough or molten tallow brought into the town	1	0
Stone of candles	0	6
Hundred-weight of soap	2	0
Boll of potatoes to pay at the port, besides the gatepenny	1	0
Ox or cow brought to the town's markets, one shilling and sixpence, but no back-custom	1	6
New bed and press	2	0
New weaver's loom	1	0
New lint wheel and reel	0	6
Half-dozen of chairs	1	0
Table or elbow chair	0	6
Barrel of oil	1	0
Rubber of oil	0	6

	Scots. s.	d.
Each hogshead or cask of strong ale	2	0
Horse-load of nails or iron-work	2	0
Anker of whisky	1	0

All articles brought into the town, though not mentioned in the above table, to be charged with petty customs, at the rate of and in proportion to the articles before-mentioned.

BACK CUSTOM.

For each dozen of calves, sheep, or goat skins carried out of town	1	0
Load of green fish carried out	0	6
Ox or cow's hide carried out	0	6
Stone of rough or molten tallow carried out	2	0

All the customs and back customs to be doubled at the Lady-Mary-Fair.

REGULATIONS.

Custom not to be charged at the port or craig on cattle, sheep, calves, swine, or other beasts brought from the muir at the town's fairs, or in passing through the town on their way to or from the markets.

The custom on goods, &c., brought into town by land, to be paid at the port; and on goods, &c., brought into town by water, at the craig or other landing-place.

The custom when exacted at the port craig, or any other place, not to be paid again at the cross or elsewhere.

The tacksmen of the customs shall be obliged to maintain and uphold the weights and measures during their leases, and at the expiry thereof to deliver them up to the succeeding tacksmen in as good condition as they were in when they received them.

Victual imported by sea on an unfreeman's risk to be charged with the same duty as victual imported by an unfreeman.

The inhabitants of the Hilltown receiving a share of victual bought by any of the trades of Dundee, to pay ladles on it, the same as are paid by members of the trade who reside within the burgh.

The customs on all wood, bark, or limestone brought down the river from Perth or any other place to the westward, and landed at the craig or at any other part of the shore in open boats,—and the customs on these articles, and on all butter, cheese, or oil brought up the river from the north country in open boats, and landed at the craig or at any part of the shore, shall belong to the tacksman of the craig customs.

If any person shall enter the town with goods, &c., by a bye-way, and evade payment of the custom, he shall be liable in damages.

No. VIII.—DUNDEE HARBOUR.

ABSTRACT of the TREASURER'S ACCOUNTS, from 1st June 1832 to 31st May 1833, inclusive.

	£.	s.	d.	£.	s.	d.
CHARGE.						
Shore-dues uncollected at 31st May 1832				398	8	10
Amount of shore-dues on vessels and goods this year	9,229	3	8			
Graving-dock dues	519	6	3			
Crane dues	64	15	8			
Rents of property	467	8	1			
Fines, &c.	10	16	9			
				10,291	10	5
Borrowed from sundries				43,470	0	0
Sum				£54,159	19	3
DISCHARGE.						
Wages to masons, labourers, &c.	11,079	3	4			
Quarrying and hewing stones	3,742	13	3			
Cartage of stones	1,489	12	11			
Salaries:	£.	s.	d.			
John Cairncross, treasurer, a year and a half	75	0	0			
James Easson, superintendent, a half year, £50, and to his widow £8 6s. 8d.	58	6	8			
Thomas Mathews, half a year	30	0	0			
Thomas Gray, berthing-master, a year	100	0	0			
William Wrongham, assistant berthing-master, a year	60	0	0			
James Saunders, clerk, a year	100	0	0			
James Leslie, resident engineer, a year and a twelfth	325	0	0			
Four dock-gatemen	155	4	0			
				903	10	8
Wood				1,359	4	9
Iron and smith-work	391	0	2			
,, ,,	594	16	0			
Foundry castings	12	13	0			
				998	9	2
Expense of collecting shore-dues:						
Simon Robertson, collector	170	0	0			
James Nicol, clerk	80	0	0			
Carried forward	£250	0	0	£19,572	14	1
				£54,159	19	3

DUNDEE.

	£.	s.	d.	£.	s.	d.	£.	s.	d.
Brought forward	250	0	0	19,572	14	1	54,159	19	3
David Barnet, clerk	70	0	0						
Andrew Watt, clerk	60	0	0						
Commission to shipping companies	63	5	9						
Incidental charges	17	4	2½						
				460	9	11½			
Lime, sand, and cement	1,973	19	5						
,, ,,	19	4	0						
				1,993	3	5			
Carpenter-work				323	9	8			
Wright, slater, plumber, cooper, glazier, and saddler work				217	5	6			
Lighting and watching the harbour				199	18	6			
Graving-dock wages, &c.				104	16	2			
Boots for men				340	11	7			
Cordage				238	13	2			
Tar				73	14	11			
Road at Lochee quarry, metal, pavement, and bricks				197	8	9			
Oil, tallow, and candles				88	14	7			
Printing and advertising				49	10	3			
Coals				201	8	11			
Stationery				21	19	6			
Painting				17	8	6			
Rents to town of Dundee	333	0	0						
Rents of shore-dues' office, &c.	55	0	0						
				388	0	0			
Feu-duties				8	7	8			
Expense of laying foundation-stone, and New Year's gifts to men				131	15	7			
Agency fee for submission with the town, &c.				47	13	10			
Corn, hay, &c., for horse				37	19	6			
Incidents	75	19	3						
Tolls, mats, and other incidental charges	46	19	4						
				122	18	7			
Taxes, subscription to infirmary, police, and poor's assessment, and town clerk's dues				38	19	1			
				24,877	1	8½			
Implements, punts, cranes for barges, &c.	1,247	19	6						
Chain pumps, new boat	40	8	0						
				1,288	7	6			
Iron crane, repairing				62	0	0			
Interest on debt, including stamps on bonds and commission on money borrowed	4,287	13	11						
,, ,,	48	16	8						
				4,336	10	7			
Paid off Exchequer loan	2,259	0	0						
Sundries	1,560	0	0						
Balance on Bank account at 31st May 1832	2,875	18	3						
				6,694	18	3			
Balance due by the Bank at 31st May 1833	16,547	12	1						
Shore-dues not collected till June, £336 12s., and arrears of shore and graving-dock dues, £16 17s. 1½d.	353	9	1½						
				16,901	1	2½			
Sum of discharge							£54,159	19	3

GENERAL ABSTRACT of the AFFAIRS of the DUNDEE HARBOUR, from the Commencement of the Operations in August 1815, to 31st May 1833.

	Income. £.	s.	d.	£.	s.	d.	£.	s.	d.
Amount of shore dues at 31st May 1832	129,180	0	0						
Add for this year	9,229	3	8						
							138,409	3	8
Careening beach dues	51	7	8						
Graving dock dues at 31st May 1832	4,159	11	1						
Add for this year	519	6	3						
				4,730	5	0			
Carried forward				£4,730	5	0	£138,409	3	8

	£. s. d.	£. s. d.	£. s. d.
Brought forward		4,730 5 0	138,409 3 8
Crane dues at 31st May 1832	214 17 7		
Add for this year	64 15 8		
		279 13 3	
Rents of property at 31st May 1832	1,181 6 0		
Add for this year	467 8 1		
		1,648 14 1	
Fines, &c. this year		10 16 9	
Due to Exchequer Loan Commissioners	5,235 0 0		
Sundries on bonds	108,633 0 0		
Sinking fund	6,738 14 10		
		120,606 14 10	
			127,276 3 11
Total income			£265,685 7 7

EXPENDITURE.

	£. s. d.	£. s. d.	£. s. d.
On building the harbour and docks at 31st May 1832		139,024 12 6	
Add expended this year		24,877 1 8½	
			163,901 14 2½
Implements	1,138 17 3		
Add implements this year	1,288 7 6		
		2,427 4 9	
Lochee engine	405 0 10		
Quarry at Lochee	1,845 15 7		
Dredging machine	3,450 0 0		
Iron cranes, £378 7s. 3d., and repairing ditto this year, £62	440 7 3		
		6,141 3 8	
Amount of interest paid on debts	37,178 17 9		
Add paid this year	4,336 10 7		
		41,515 8 4	
Compensation to the town	27,500 0 0		
For Stamp conveyances, &c.	517 16 11		
		28,017 16 11	
Due by the Bank at 31st May 1833		16,547 12 1	
Amount of sinking fund at ditto		6,738 14 10	
Shore dues in arrear at ditto		353 9 1½	
Outstanding debt due by J. and J. Rutherford		42 3 8	
			101,783 13 4½
Total			£265,685 7 7

Edinburgh, 2nd August 1833. This report, written on this and the eight preceding pages, has been prepared and is humbly submitted by

(Signed) WILLIAM BALLINGALL, Auditor.

No. IX.—ADDITION TO VALUATION OF TOWN'S PROPERTY.

SINCE this Report was prepared, a statement has been received from the Chamberlain of Dundee, setting forth that the following articles were omitted in the Account and Valuation of the Town's Property:

	£. s. d.	£. s. d.
Feu duties of property at Chapelshade	23 6 10	
Vicarage duties of lands of Duntrune, &c.	3 5 6	
	£26 12 4	
At 20 years' purchase		£532 6 8

DUNDEE.

No. X.—A COMPARATIVE STATEMENT of the principal ARTICLES of IMPORT at, and of EXPORT from, the PORT of DUNDEE, in two years ending 31st May 1832 and 31st May 1833 respectively; with the Amount of Shore Dues levied during these periods.

Imports and Exports.	Year ending May 1832.	Year ending May 1833.	Increase, 1833.	Decrease, 1833.
IMPORTS.—*Goods.*				
Flax . . . . Tons	10,907	16,040	5,133	. .
Flax Codilla . . ,,	4,103	2,737	. .	1,366
Hemp. . . . ,,	1,607	2,875	1,268	. .
Hemp Codilla. . ,,	1,475	505	. .	970
Lime . . . . Bolls	42,604	50,939	8,335	. .
Coals, English . ,,	131,621	139,194	7,573	. .
Coals, Scots . . ,,	168,015	189,530	21,515	. .
Ashes. . . . . Cwts.	15,396	7,748	. .	7,648
Timber . . . Loads	6,107	7,307	1,200	. .
Iron . . . . Tons	1,417	1,602	185	. .
Tallow . . . Cwts.	123	905	782	. .
Tar . . . . Barrels	222	2,547	2,325	. .
Whale-blubber . Tuns	750	1,981	1,231	. .
Whalebone . . Cwts.	725	2,138	1,413	. .
Oats . . . . Quarters	4,804	. .	. .	4,804
Barley . . . ,,	4,605	. .	. .	4,605
Wheat . . . ,,	10,525	5,130	. .	5,395
Pease . . . . ,,	875	. .	. .	875
EXPORTS.—*Linens.*				
Osnaburg. . . Pieces	87,570	100,713	13,143	. .
Sheeting . . . ,,	143,250	148,377	5,127	. .
Cotton bagging . ,,	49,036	27,179	. .	21,857
Sundry ,, . ,,	13,163	16,793	3,630	. .
Sail-cloth . . . ,,	85,522	81,754	. .	3,768
Sacking . . . ,,	47,948	57,242	9,294	. .
Dowlas . . . ,,	68,448	69,774	1,326	. .
Sundries . . . ,,	9,601	13,374	3,773	. .
	504,538	515,206	10,668	. .
GRAIN.				
Wheat . . . Quarters	2,729	750	. .	1,979
Barley . . . ,,	34,024	42,626	8,602	. .
Oats . . . . ,,	782	734	. .	48
Pease . . . . ,,	262	609	347	. .
Flour . . . Sacks	699	200	. .	499

SHORE-DUES.—*Imports.*	Year 1832. £. s. d.	Year 1833. £. s. d.	Increase, 1833. £. s. d.	Decrease, 1833. £. s. d.
Tonnage and plankage . .	2,870 15 3	2,756 11 2½		114 4 0½
Flax and hemp	1,132 4 5	1,254 16 2½	122 11 9½	
Coals and lime	874 17 4	876 0 3½	1 2 11½	
Miscellaneous	2,258 17 7	2,127 7 3½		131 10 3½
SHORE-DUES.—*Exports.*	7,136 14 7	7,014 15 0		121 19 7
Linens	1,563 17 6	1,544 10 1		19 7 5
Grain	218 14 9½	232 0 10	13 6 0½	
Miscellaneous	454 19 2	414 19 6		39 19 8
Amount on exports . . .	2,237 11 5½	2,191 10 5		46 1 0½
Amount on imports . .	7,136 14 7	7,014 15 0		121 19 7
Total Shore-dues for 1832 and 1833	9,374 6 0½	9,206 5 5		168 0 7½

No. XI.—A COMPARATIVE STATEMENT of the NUMBER of VESSELS, and their TONNAGE, entered the HARBOUR in 1832 and 1833.

Description.	Tonnage, 1832.	Tonnage, 1833.	Increase, 1833.	Decrease, 1833.
Vessels from foreign belonging to Dundee . .	27,062	24,914	. .	2,148
,, ,, not belonging to Dundee .	20,206	22,234	2,028	. .
,, Coasting belonging to Dundee .	86,243	92,570	6,327	. .
,, ,, not belonging to Dundee .	42,611	53,489	10,878	. .
Vessels in the River Tay trade	15,362	18,818	3,456	. .
Total tonnage . . .	191,484	212,025	20,541	. .
Number of vessels entered the harbour . .	2,624	3,018	394	. .

(Signed) SIMON ROBERTSON.

Shore-Dues' Office, Dundee, June 26, 1833.

No. XII.—An ACCOUNT of the DUNDEE HARBOUR REVENUE derived from the SHORE-DUES, from the Commencement of the Act for improving the Harbour, July 4, 1815, to May 31, 1833.

Period.	Amount collected by the Commissioners.	Expense of Collection.			Net Amount received under the Collection.	Amount received while under Lease.	Sum exposed at unsuccessfully.	Scale by which the dues were levied, £100.	Amount they would have yielded at old Rates.	Saved to the Public by the Reduction of Rates.	Gain of the Public by the Collection.	Net Amount received under the Collection and Leases.
		Collector and Clerks' Salaries.	Incidental Charges.	Rate per Cent.								
	£.	£.	£.	£. s. d.	£.	£.	£.	£.	£.	£.	£.	£.
July 1815 to July 1816	4,411	315	No Account found.	7 2 9	4,096	. .	. .	75	. .	. .	. .	4,096
,, 1816 ,, 1817	5,908	350		5 18 6	5,558	. .	. .	100	. .	. .	. .	5,558
,, 1817 to May 1818	. .	. .	. .	. .	. .	5,021	. .	100	. .	. .	. .	5,021
May 1818 ,, 1819	. .	. .	. .	. .	. .	5,605	. .	100	. .	. .	. .	5,605
,, 1819 ,, 1820	. .	. .	. .	. .	. .	5,605	. .	100	. .	. .	. .	5,605
,, 1820 ,, 1821	. .	. .	. .	. .	. .	5,910	. .	100	. .	. .	. .	5,910
,, 1821 ,, 1822	. .	. .	. .	. .	. .	5,910	. .	100	. .	. .	. .	5,910
,, 1822 ,, 1823	7,145	362	100	6 9 3	6,683	. .	6,250	87½	8,165	1,020	433	6,683
,, 1823 ,, 1824	8,379	383	115	5 18 10	7,881	. .	6,400	87½	9,576	1,197	1,481	7,881
,, 1824 ,, 1825	8,478	386	117	5 18 8	7,975	. .	6,700	75	9,689	1,211	1,275	7,975
,, 1825 ,, 1826	. .	. .	. .	. .	. .	8,055	. .	75	. .	. .	. .	8,055
,, 1826 ,, 1827	7,841	300	79	4 16 8	7,462	. .	8,000	75	8,961	1,120	. .	7,462
,, 1827 ,, 1828	9,622	300	86	4 0 3	9,236	. .	8,000	75	12,027	2,405	1,622	9,236
,, 1828 ,, 1829	10,134	315	90	3 19 11	9,729	. .	10,000	75	12,667	2,533	. .	9,729
,, 1829 ,, 1830	11,231	330	99	3 16 4	10,802	. .	10,000	75	14,039	2,808	802	10,802
,, 1830 ,, 1831	10,599	330	87	3 18 8	10,182	. .	11,000	100	. .	. .	. .	10,182
,, 1831 ,, 1832	9,386	380	83	4 14 7	8,923	. .	. .	80	10,409	1,023	. .	8,923
,, 1832 ,, 1833	9,229	380	80	4 15 7	8,769	. .	. .	80	11,536	2,307	. .	8,769
	102,363	4,131	936		97,296	36,106	66,350		97,069	15,624	5,613	133,402

N.B. The Perpetual Bill came into operation June 17, 1830; and the Shore-Dues were reduced 20 per cent., November 14, 1831.

REPORT

ON

THE BURGH OF DUNFERMLINE,

(FIFESHIRE.)

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DUNFERMLINE.

THE town of Dunfermline appears to have been founded by the monastery in 1363, and to have held of the Abbot. It was not erected into a royal burgh till 1588. A charter of confirmation by James VI. contains an enumeration of the lands at that time possessed by the burgh, and includes none but the lands of Balyeoman, Easter and Wester Town Greens, William Miller's pendicle, Kingseathill Parks, and Daasdendanhill: the rest of the burgh property, consisting of small pendicles, was acquired by degrees since the date of that charter. A great fire happened in 1624, which reduced the inhabitants to great distress, and forced them to throw themselves upon the towns of Edinburgh and Aberdeen for assistance. They got 1,600 merks by voluntary contribution from Aberdeen, and about the same sum from Edinburgh. HISTORY.

The town is pleasantly situated in a rich country, and has long been famed for its linen manufactures.

About the year 1760, the trade of Dunfermline was confined to the manufacture of the coarser diapers and tweelings, when in consequence of a cargo of these goods having been stranded on the Yorkshire coast, and refinished at a bleach-field near Darlington, this manufacture was successfully imitated there, and the Dunfermline goods came to be superseded in the London market.

The manufacturers of Dunfermline were then induced to make table linen in single and double diapers, and what is termed harness goods, which, from their cheapness and general utility, secured to them for many years a monopoly in the market.

Towards the end of the last century, the manufacture of linen damask was introduced and rapidly increased. At the date of the union with Ireland, a large additional duty was imposed upon the importation of German linens. This had the effect of introducing the Scotch damasks to the English market; the demand for them gradually increased, and superseded, in a great measure, the manufacture of other descriptions of goods.

At present the manufacture of table linen is not on the increase at Dunfermline, owing to the competition of the Irish and Yorkshire manufacturers: but the increasing population has found employment in other manufactures of cotton, cotton and linen, and cotton and worsted mixtures; cotton damask, and counterpanes of a lighter fabric and lower price than those of Marseilles or Manchester, and articles in damask from bleached yarn, have also, of late, been made to a considerable extent.

The spinning of flax by machinery, which has for some years been carried on extensively in Dunfermline, may be considered as one of the greatest benefits to the manufacture of damask, as it provides the manufacturer with yarn of a quality which a few years ago he could not procure upon any terms.

					POPULATION.
The Population of the parish of	Dunfermline in	1801	was	9,980	
„	„	1811	„	11,649	
„	„	1821	„	13,649	
„	„	1831	„	17,068	

The number of persons resident within the proper bounds of the burgh, whose rents in property or tenancy amount to £10 per annum and upwards, is stated to be about 397. The number of such persons, whose rents in property or tenancy amount to £5 per annum or upwards, and are under £10, is stated to be 432.

The Report now given of the present state and circumstances of the burgh has been drawn up from the examination of the town clerk, the late and present chamberlains, individuals belonging to the present and former magistracies, and the officers and other persons connected with the guildry and trades' corporations,—from official returns by these separate bodies,—and from the various statements of unofficial men resident in the burgh, or its close vicinity. The Commissioners have also derived much information with regard to the affairs of the town from 1819 to 1826, (a period of the public accounts which had not previously undergone any audit,) from a report lately furnished to the town council by Mr. Marsha accountant.

The present Property of Dunfermline consists of the farms of Highholm, Muircockhall, Lilliehill, Cairncubie, and part of the town's muir, with the coal under these lands, which for some years has been worked on account of the burgh. These lands comprehend 700 Scots acres or thereby, 180 of which are planted. The burgh likewise possesses three or four acres of land, known by the name of Halliblade acres. PROPERTY.

The house property of the burgh consists of the workmen's houses at the town colliery, the flesh-market, slaughter-house, and washing-house, the town-house, high school, and charity school in Priory Lane.

The burgh is likewise possessed of a number of seats in the parish church. When the church was built, (about the year 1820,) the magistrates were at the expense of one-fifth of

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the outlay, in the expectation of the seats selling or letting to advantage; but from the size and construction of the church, many of the seats are ill placed for hearing; of consequence they are not let, and a heavy loss has been thereby sustained.

The whole value of the burgh property, taking the land rental at 30 years' purchase, in consideration of the value of the minerals, and the value put on the wood and houses by a professional man, is stated to be £19,501 5*s.* 10½*d.* The town-house, high school, and Priory Lane school, at present unproductive, are estimated by Mr. Bonar, builder, at £2,150 more.

ALIENATIONS.

The only Alienation of the burgh's real property of any consequence within the last 40 years was part of the lands lying immediately south of those still belonging to the burgh, which were sold to Mr. Downie of Appin, in 1829, for the price of £14,105. The lands sold consisted of Balyeoman, Easter and Wester Town Greens, William Miller's pendicle, Kingseathill Parks, commonly called Headmill and Planting Parks, and Daasdendanhill. The whole were under lease at the time they were sold, and were rented at £506 12*s.* 11*d.*, and the sale was by public roup, after being regularly advertised.

The magistrates and council likewise sold in 1824, to Mr. Hunt of Pittencrief, a yarn boiling-house and drying-house. It was old and ruinous, and did not yield an average rent of £6, and the price obtained for it was £250; and they have also sold part of the church seats belonging to the burgh.

REVENUE.

The annual Revenue of the burgh is estimated by the town clerk at about £870, and is composed of

	£	*s.*	*d.*
Land, coal rents, and wood, about	730	0	0
Rents of houses, &c.	35	0	0
Feu duties	1	10	0
Custom and market dues, about	100	0	0
Burgess entries, about	2	0	0
	£868	10	0

EXPENDITURE.

The estimated gross annual Expenditure of the town is reported by the town clerk as follows:

	£	*s.*	*d.*
Yearly salaries, about	65	0	0
Interest of debt, about	600	0	0
Aliment to prisoners, about	15	0	0
Stipend and school salaries	38	0	0
Feu duties	3	12	0
Repairs on property, gaol, &c.	10	0	0
	£731	12	0

In this view the ordinary income should exceed the necessary expenditure by £136 18*s.*

The actual revenue for the year ending 31st December 1832 was £1,241 18*s.* 8*d.* The expenditure for the same year was £1,309, as appears from the following account:

1832.—RECEIPTS.

	£.	*s.*	*d.*	*£.*	*s.*	*d.*
The land rents for crop 1831, from 31st December 1831, to December 1832	378	19	0			
House rents for ditto	88	3	0			
				467	2	0
Petty customs and stand mails				79	18	0
Burgess entries				1	16	10
Rent of church seats				5	15	0
Proceeds of coal	1,850	8	0			
off expenses	1,450	3	0½			
				400	4	11½
Proceeds of wood	169	8	1½			
off expenses	36	1	8½			
				133	6	5
Proceeds of land				6	15	8¼
Feu duties				1	4	3
Extraordinary income, including repayment of £133 19*s.* 6*d.* advanced to tenants, and taking into account an additional advance to them of £6 18*s.*				145	15	6
Total Receipts				£1,241	18	8

1832.—EXPENDITURE.

	£.	*s.*	*d.*
Interest to creditors	567	18	3
Repairs	15	6	10
Feu duties and public burdens	19	14	8½
Salaries	88	6	2
Aliment of prisoners	18	6	1½
Carried forward	709	12	1

	£.	s.	d.	£.	s.	d.
Brought forward -	709	12	1	1,241	18	8
Accounts and incidents - - - - -	29	3	10½			
Expense of management - - - - -	24	8	8			
Ordinary expenses - - - - -	£763	4	7½			
Extraordinary expenditure, including £209 11s. 9½d. for coal on hand - - - - - -	546	14	6			
				1,309	19	1½
Excess				£ 68	0	5½

DEBT.

The Debts of the burgh, as at Martinmas 1833, may be stated thus:

Heritable debts - - - - - - - - -	£10,000	0	0
Personal debts, ordinary claims - - - - - -	4,466	7	3
Claims for charitable and other purposes - - - -	1,085	12	11
Acknowledged debt of the town	£15,552	0	2

The burgh is besides liable as surety for the Police Commissioners to the extent of £2,000. This statement is without relation to a final adjustment of accounts with Mr. Beveridge and Mr. Douglas, as treasurers or chamberlains of the burgh, in both which cases it seems to be probable that there will be a balance in favour of the burgh.

The debt of the burgh in 1694 was 5,573 merks, equal to £309 11s. 2d. sterling. From the records of the burgh it appears that they were so poor, in 1701, as to apply for pecuniary aid to the convention, and in the year 1745 the Pretender assessed the burgh in £80 sterling, which they were obliged to borrow.

From that time the debt of the burgh has been constantly increasing, till within the last three or four years, during which it has been nearly stationary.

In 1788, the debt had increased to - - -	£3,000
" 1798, it had increased to - - - - -	5,000
" 1808, it amounted to - - - - -	10,450

The debt, as returned to Parliament under the order of July 1832, was,

	£	s.	d.
October 1827 - - - - -	20,795	0	8½
" 1828 - - - - -	20,339	16	2
" 1829 - - - - -	15,085	13	1
" 1830 - - - - -	15,040	19	10
" 1831 - - - - -	14,658	9	4

ADMINISTRATION.

The Administration of the affairs of Dunfermline appears to have been faulty, and not regulated by any regard to the interests of the burgh, or the amount of its revenue.

The following table shows the progress of over-expenditure from 1808 to 1818:

	Income.			Expenditure.			Excess.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
1808	1,477	10	$10\frac{8}{12}$	2,106	1	$6\frac{1}{2}$	628	10	$7\frac{10}{12}$
1809	1,484	10	$4\frac{10}{12}$	2,591	5	7	1,106	15	$2\frac{9}{12}$
1810	1,234	13	3	2,169	6	7	934	13	4
1811	1,585	8	$4\frac{10}{12}$	2,292	15	6	707	7	$1\frac{9}{12}$
1812	1,495	14	$11\frac{10}{12}$	1,686	5	$0\frac{6}{8}$	190	10	$0\frac{8}{13}$
1813	1,396	1	$4\frac{10}{13}$	2,458	16	5	1,062	15	$0\frac{5}{13}$
1814	1,414	19	$11\frac{4}{13}$	2,019	19	6	604	19	$6\frac{9}{12}$
1815	1,679	17	$2\frac{10}{13}$	2,142	10	$3\frac{10}{13}$	462	13	1
1816	1,246	17	0	1,959	17	0	713	0	0
1817	967	14	$6\frac{4}{13}$	1,873	10	3	905	15	$8\frac{9}{13}$
1818	797	5	7	1,473	13	$10\frac{8}{13}$	676	8	$3\frac{1}{2}$
							£7,993	7	$11\frac{10}{13}$

This table is taken from a statement of the town's income and expenditure, from 1808 to 1825 inclusive, made up some years ago by Mr. Alexander Robertson, chairman of the water committee, for his own satisfaction, and which was produced by him to the Commissioners. He stated that "the materials were taken from the town's accounts, and, to the best of his knowledge and belief, it is a true account of their affairs. The declarant had no design to make the case better or worse, but he wanted to see the real state of accounts; and in the column of income he placed, not the rental of the year, but the real sum actually received on account of the town." A copy of the statement was sent to Mr. Beveridge, who was chamberlain during the period to which it applies, with a request that he would either give a certified statement of the accounts from his own books, or say whether he had any objections to Mr. Robertson's state being taken as a fair account of the receipts and expenditure of the period: no answer has been received to this communication, but Mr. Beveridge has admitted to a member of the Commission that Mr. Robertson's statement may be considered as nearly right; and, from the sources from which it was extracted, there can be little room for doubting its substantial correctness. So far it receives direct support from the

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official documents in the Parliamentary Report of 1819, as it there appears that the debt, which was calculated in 1808 at £10,450, had increased in 1819 to £20,401 4*s.* 10$\frac{8}{12}$*d.*; and by the Report on the state of the affairs of the burgh lately given by Mr. Marshal, independent of obligations still due for building the grammar school and new church, the debt is stated to be £17,835 8*s.* 2½*d.* at 25th March 1819.

The accounts of the succeeding years, from 1819 to 1829, were never audited till they were lately put into the hands of Mr. Marshal, and it appears very doubtful whether they were from year to year made up in a form for receiving audit. The Commissioners have found it impossible to get access to the books of the chamberlain except during the short period, from 1829 downwards, that the present chamberlain has been in office. The present provost declared, "that when he came into office, he found that there were no distinct books kept for the town; the receipts and expenditure of the town were mixed up with the private affairs of Messrs. Douglas and Beveridge, the chamberlain and town clerk, and they made that a reason for not producing the books to the council, who never saw the town's accounts while they were kept by these gentlemen. That since the present chamberlain, Mr. Kilgour, came into office, in 1829, the accounts of the town have been regularly kept in separate books, agreeably to instructions given to Mr. Kilgour by the declarant. That the last of Mr. Beveridge's accounts which was audited was in 1819, and from that time till 1826 no audit of his accounts appears to have taken place. In that year the declarant was in council, and he and other auditors appointed by the council set about examining Mr. Beveridge's accounts; but, after labouring at them for years, he found it necessary to recommend to the council to place them in the hands of an accountant, to which the council agreed, and they were accordingly put into the hands of Mr. Marshal, accountant in Edinburgh."

The accounts have since been reported on; and instead of Mr. Beveridge being in advance on account of the town, as previously stated by him, a balance in favour of the burgh, amounting to £319 13*s.* 1½*d.*, is brought out against Mr. Beveridge.

Mr. Douglas succeeded to Mr. Beveridge as chamberlain about 1826, and the accounts for three years, during which he held that office, have lately been submitted to the same accountant, but they are not yet reported on: and to give a correct statement of the whole money transactions of this town, it would be necessary to take into view also the accounts of Mr. Renny, W.S., agent for the burgh. These accounts, too, it is believed, have not yet been audited or reported on.

During the whole period from 1819 to 1829, the magistrates and council continued to exceed the income of the burgh by their expenditure.

	Income.			Expenditure.			Excess.		
	£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*
1819	1,756	14	5$\frac{6}{12}$	4,631	17	0$\frac{10}{12}$	2,875	2	7$\frac{4}{12}$
1820	1,261	18	5$\frac{8}{12}$	2,480	10	9½	1,218	12	4$\frac{4}{12}$
1821	1,755	5	4$\frac{10}{12}$	1,937	1	9$\frac{6}{12}$	181	16	4$\frac{8}{12}$
1822	968	13	5$\frac{6}{12}$	1,752	15	7$\frac{6}{12}$	784	2	2
1823	726	2	4$\frac{4}{12}$	1,354	1	6$\frac{6}{12}$	627	19	2$\frac{2}{12}$
1824	1,417	10	7$\frac{10}{12}$	2,314	2	6	896	11	10$\frac{8}{12}$
1825	672	14	9$\frac{5}{12}$	2,588	16	11	1,916	2	1$\frac{1}{12}$
1826	926	12	0	1,066	2	10	139	10	10
1827	851	4	11½	983	10	10½	132	5	11
							£8,772	3	5$\frac{4}{12}$
1828	1,019	0	4	880	18	8			

In the year 1828, for the first time for forty years, there is a surplus income, according to the public accounts; but they give no true account of the real transactions of the year, as only a small part of the interest due to heritable creditors appeared upon them.

The debt of 1827 was stated in the accounts returned to the House of Commons, under the order of July 1832, at £20,795 0*s.* 8½*d.*, a sum not much greater than it was returned at in 1818, notwithstanding the excess of expenditure which had occurred during the intermediate period.

In the year 1827 the state of the affairs of the town excited the suspicion of the creditors, and several actions were brought against the council for payment of their debts. An offer of compromise was made to the creditors, and accepted of by them to a considerable extent. A note of the compositions paid to the creditors on the occasion, in full of their debts, as certified by Mr. John Malcolm, the present first bailie of this town, is produced with this Report.

In 1828 the debt of the burgh is stated, in the returns to the House of Commons, at £20,339 16*s.* 2*d.*

In 1829 the sale of land to Mr. Downie took place, at the price of £14,105. The expense of advertisements, auction duty, stamps, and titles, amounted to £676 5*s.* 5*d.*, leaving the net proceeds of the sale £13,428 14*s.* 7*d.*; and to that extent the debt must have been diminished, if the burgh accounts had previously contained a full state of its debt, and there would have remained £6,911 1*s.* 7*d.*

In 1829, however, according to the same returns, the debt is stated at £15,085 13*s.* 1*d.*; and from that date it has continued about the same amount to the present year.

The striking discrepancy in these accounts between the debt in 1828, and the debt as it stood in 1829, allowance being given for £13,428 14*s.* 7*d.*, the produce from the price of the lands sold, is a circumstance of which no satisfactory explanation has yet been given. It

appears to us that it can only be accounted for by supposing that the debt in 1828 had been understated. In confirmation of this view, it may be noticed, that an arrear of interest on Mr. Downie's bond, amounting to £1,465 6*s.* 2*d.* (which, of course, had become a debt of the town as much as the principal), had not been taken into the account of debt, as then stated.

It appears from the evidence of Mr. Renny, the agent of the town at the time of the sale to Mr. Downie, that the price was applied thus:

	£.	s.	d.	£.	s.	d.
Payment of principal sum due to Mr. Downie by the town upon heritable bond				12,000	0	0
Arrears of interest due on ditto at Martinmas 1826	190	6	2			
Five half-years' ditto, to 15th May 1829	1,275	0	0			
				1,465	6	2
Auction duty				416	17	5
	13,882	3	7	13,882	3	7
Balance paid or credited to the town	223	1	5			
	£14,105	5	0			
Besides the sums stated in Mr. Renny's evidence, there was a charge for advertisements connected with the sale, amounting to	68	18	2½			
And the stamps and titles cost	190	9	10			
				259	8	0½
Making together				£14,141	11	7½
The price, as formerly stated, amounted to				14,105	5	0
Thus, the debt and interest due to Mr. Downie, and the expenses of the sale, exceeded the price of the lands sold to him by				£36	6	7½

There being no balance of the price of the lands sold to Mr. Downie, after discharging his debt, and the expenses of the sale, it was found necessary to negotiate a fresh loan of £4,000 from parties already creditors of the burgh. Of this sum there was retained in the hands of the agent of the lender £62, as the expense of the bond, and £668 18*s.* 7*d.*, being an arrear of interest upon the debt previously due to his constituents by the burgh. The agent of the burgh who procured the loan retained to account of his business accounts £510*, so that on parting with their lands at the nominal price of £14,105, their old debt was only extinguished to the extent of £12,000, and £2,500 was swallowed up by claims which had never been computed as liabilities in these accounts; and of £4,000 borrowed this year, only £2,763 1*s.* 5*d.* found its way into the treasury of the burgh, and £1,236 18*s.* 7*d.* went to the payment of law accounts, and to satisfy the claims for interest, which, even with all the over-expenditure of former years, had been allowed to run in arrear. These sums united will partly account for the discrepancy in the statement of the debt in 1828 and 1829, as rendered to the House of Commons, and the real debt in these years; but there is still a large difference to be accounted for.

The Commissioners cannot, therefore, leave this subject without stating that, in their opinion, the returns by the burgh of Dunfermline to the order of the House of Commons of 17th July 1832, as to the amount of its debt, are glaringly faulty and inconsistent; and that these inconsistencies were not reconciled in the course of their inquiries.

Since the arrangement of the affairs of the burgh, which followed the sale of land in 1828, and which led to the making up of a true state of the debts, the management of the burgh property appears to have been unexceptionable, and the debt has not been allowed to increase. The principal heritable creditors are in possession of the burgh lands, in terms of their bond, and the rents are drawn and accounted for by their agent. This creates a double management, which is very inconvenient; and it is very desirable that some arrangement should be made by which the whole affairs of the burgh should be again brought under the management of their own officers. This done, it is to be hoped that, by a continuance of that prudent course of management which has been followed since 1829, a portion of the property of the town, sufficient for its ordinary expenditure, may still be preserved.

TAXATION.

The Burgh Land Tax is laid on by 12 sworn stent-masters, appointed by the council once a-year; and the tax is collected by the town chamberlain, who is allowed 10 per cent. for his trouble. It appears always to have been irregularly collected. In the Report to Parliament in 1819 it is stated, that nine years' land-tax were then due to the Government. The sum which should be annually paid is £78; and the town clerk stated that, on the average of the last ten years, about £110 was levied for this purpose. In the accountant's report on Mr. Beveridge's accounts from 1819 to 1826, £1,080 10*s.* 8⅓*d.* appears to have been assessed in that period, but only £577 8*s.* 5½*d.* has been levied; and the payments to Exchequer within the

* It is stated by the agent for the burgh, that he has not yet received payment of this account, which was for business done from the year 1823 or 1824, including the expense of completing a feudal title for the burgh to their heritable property by charters of confirmation and novo damus, according to the advice of counsel.—See Mr. Renny's declaration.

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same time amounted to £1,198 8*s*. The accountant has not been able to get any account of the *arrears* of this series of years, and it is supposed that none can now be given.

For time immemorial the magistrates have been in use of erecting stands on market-days, and of exacting for the use of them, and for the privilege of selling within burgh, certain Stand Mails, or dues. These are let by public roup, and bring an annual return of £10 or £11. They also levy Petty Customs, which are likewise let by public roup, and are levied agreeably to a table of fees and customs, which has been long in use. The full dues are exacted from unfreemen, and the half only from burgesses, except those on meal, barley, and potatoes, sold in retail, from which there is no exemption. Those articles, however, brought in for the use of private families, and meal sold by the town, guildry, or incorporated crafts, as public bodies, are custom free. The average return of the petty customs, from 1827 to 1831, was £66 11*s*. annually. The provost gave it as his opinion that there is a hardship in the present mode of levying these custom duties, inasmuch as a dealer on the small scale, (take, for instance, the case of a farmer bringing his butter into market,) is obliged to pay custom for his commodity, while a dealer on a large scale may import any quantity of the same commodity into the town without any custom.

Some of the inhabitants consider the petty customs as a source of great vexation, and not so productive as they might be, from the mode of collection. They are farmed, and, of course, the tacksman must have a profit of at least £40 upon them, as they occupy his whole time. The burden thus borne by the smaller dealers is disproportionate to any advantage accruing to the common good.

JURISDICTION.

The Jurisdiction of the magistrates is confined to the royalty, as it was extended by the Burgh Police Act in 1811.

There are two courts held within the burgh:—1st. The ordinary bailie court, before which debts of any amount may be sued for; and 2nd. The nine-merk court, before which actions for sums of and under nine merks Scots may be brought, at a very trifling expense—no written pleadings being allowed.

The number of civil cases brought into court since 1820 are as follow:—

1820	22	1827	7
1821	21	1828	5
1822	14	1829	10
1823	45	1830	3
1824	34	1831	8
1825	17	1832	3
1826	7	1833	2

The magistrates have also criminal jurisdiction in petty offences, such as assaults, &c., but there have been no criminal prosecutions during the above period.

The civil business in the burgh court has very much decreased since the institution of the sheriff's small-debt court, and there are few civil actions brought now, except in the nine-merk court, which is held once a fortnight.

The principal part of the judicial business of the magistrates is connected with police cases, which are disposed of daily as they occur. The sheriff substitute for the western district of Fife holds a small-debt court once a fortnight in Dunfermline, and investigates all offences of a serious nature, immediately on their being reported to him.

The town clerk always acts as assessor to the magistrates.

The provost of Dunfermline is *ex officio* a justice of the peace of the county of Fife, and when any offence is committed within the suburbs of the town, but beyond the royalty, the offender is brought before the provost. It does not appear, therefore, that great inconvenience has been hitherto felt from the inhabitants of the district adjoining the town not being under the jurisdiction of the magistrates. Most of the official persons, however, consider that it would be an advantage to extend the burgh jurisdiction as far as the parliamentary boundaries; and that this would be much for the benefit of those residing beyond the present boundary of the burgh. The only objection likely to be made to the extension would arise from the amount of the police debt, for which the present burgh is liable, and for which it would be hard to make those residing beyond the royalty responsible. Some of the inhabitants of the suburbs, who were examined, gave it as their opinion, that if the inhabitants of these districts were secured from liability for any part of the present police debt, they would think it advantageous to be included in the same police jurisdiction, and would be ready to pay their share of the future expense. Lying so near the town, culprits committing offences within it immediately escape to the suburbs, where the police cannot pursue them; and it would be very desirable to have a well-regulated police to protect property and preserve regularity in these districts.

These individuals, however, were quite aware that a great many of their neighbours entertained an opposite opinion.

Mr. Hunt of Pittencrief, a gentleman possessed of very considerable property within the royalty of Dunfermline, whose estate lies contiguous to the town, and who has feued out some part of it beyond the royalty, but within the parliamentary boundary, and is in the course of feuing more in the same situation, "thinks it might be prejudicial to his property to have the jurisdiction of the magistrates of Dunfermline extended over it. It is impossible to say at present of what description of persons the magistracy of Dunfermline may be in future composed. He is not aware of any advantage that would arise from extending the jurisdiction. If the sheriff substitute of the western district of Fife resided in Dunfermline, as he ought to do, the neighbourhood would be sufficiently taken charge of, without any extension of the jurisdiction of the magistrates. The police assessment in Dunfermline is 1*s*. 6*d*. a pound on the rent. The streets on his property, without the royalty, are lighted and cleaned, and the inhabitants are supplied with water upon an assessment of 4*d*. per pound."

DUNFERMLINE. PATRONAGE.

The magistrates and council possess no Patronage but in the appointment of their own officers, viz.—

Clerk.
Chamberlain.
Fiscal.
Town's Officers and Gaoler.
Clock-keeper and Ringer of Bells.

The officers are appointed by majority of the votes of the town council. No price or consideration has been in use to be paid for any of them, except the clerkship. None of their duties are performed by deputy, and all hold at the pleasure of the town council, except the clerk.

The clerk has always been appointed *ad vitam aut culpam*. His salary is at present £12 a year. He is besides entitled, in virtue of his office, to pass the whole sasines within the burgh, and likewise to fees in cases before the burgh court, which, however, are very trifling.

The salary of the chamberlain in 1828 was £30 a-year. At that time the management of the town's affairs was, by the council and town's creditors, jointly committed to the present chamberlain, whose allowance has not yet been fixed.

The two town's officers have £8 8*s*. a-year each, with a suit of clothes every second year, and some small fees for attending the bailie court. The gaoler has £10 a-year, besides some trifling fees. The clock-keeper has £6 6*s*. a-year: and the ringer of bells £2 2*s*.

The burgh has no patronage of any church, and no presentation of any professorships or other academical office.

The patronage of the grammar or town school is in the Marquis of Tweedale, but it is always exercised in favour of the person recommended by the town council.

The salary arising from a mortification by Queen Ann of Denmark amounts to £22 12*s*. 6*d*.

The classes taught by the rector are:

	Pupils.	Fees per Annum. £	*s.*	*d.*
Latin	10	1	8	0
French	25	1	0	0
Arithmetic	40	1	0	0
Geography	8	1	8	0
Mathematics	8	1	8	0
By the usher:				
English	18	0	16	0
English and writing	22	1	14	0
Grammar and writing	5	1	4	0
Writing	10	0	18	0

The usher's salary is £2 10*s*.

CHARITIES. See printed state of the town's affairs, P. 4.

In 1821, the sum of £1,000 was bequeathed by the late Adam Rolland of Gask to the magistrates of Dunfermline for the education of the poor of the parish. On receipt of the money the magistrates converted a building belonging to the town into a school-house, at an expense of £200, and the balance remains in their hands for the fulfilment of the object of the trust. By an arrangement with the guildry, the patronage is now vested in a committee of their number, and in the magistrates and council. It is called the Priory Lane School.

There is only one teacher, and his present salary is £32.

The regulations for the school are under the control of the council and committee above mentioned, and the regulated fees at present are:

	Per Quarter. £	*s.*	*d.*
For English Reading	0	2	0
„ Reading and writing	0	2	3
„ Reading, writing, and arithmetic	0	2	6
„ The above branches and grammar	0	3	0

Latin is also taught at this school, and the charge, including the other branches, is 5*s*.

The number of scholars average about 180 or 190.

There are two small mortifications for charitable purposes, called "Jermyn's" or "Græme's Mortification," and the mortification of "Master of the Song." The first produces £2, and the latter £8 6*s*. 8*d*. annually.

A considerable property was mortified for the use of the poor by a person of the name of Reid, and the management was committed to the provost, two bailies, and dean of guild, the minister and two elders of the kirk session, and the minister and three elders of the relief, and the minister and three elders of the burgher congregation. The tutelaries are bound to give this charity to a higher rank of indigent persons than common paupers, and on whom as large a sum as £5 may be bestowed in the year. At the commencement, in 1815, of another establishment, calling itself the *Voluntary Association*, it was thought advisable, if possible, to unite all the charities in the town; but, on taking the opinion of eminent counsel, it was found that the deed of Reid's mortification would not admit of this. As, however, many of Reid's tutelaries were directors of the other association, the practice was introduced of the treasurers of the two bodies communicating together, and on comparing their lists, a deduction or withdrawal from the list of the association is made of those names standing upon Reid's list. This has been objected to as contrary to the object of Reid's mortification, which seemed to be to increase the comforts of the poor, and not, as the effect is practically, to lessen the contributions which would otherwise be made for them. No new applicants, how-

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ever, are admitted on Reid's list, who stand on that of the association: and those actually upon Reid's list are cut off, if they ever come upon the other. The average income of Reid's mortification for some years past has been about £100, and the number of pensioners about 130.

In 1793, Reid's tutelaries lent the town of Dunfermline on personal bond £810, at the time of the town's embarrassments: by the advice of counsel, they compromised with the town for 10*s.* in the pound, and in 1830 received £421 in lieu of their debt. The kirk session at the same time took £50 in lieu of a debt due by the town of £100.

EXCLUSIVE PRIVILEGE.

To entitle a merchant to trade within burgh, he must become a burgess and guild brother. The fees of admission with the guildry to a neutral is £30 7*s.* 6*d.* Sons or sons-in-law of burgesses pay £1 10*s.* when their father or father-in-law died without the burgh; when the father or father-in-law died within burgh, the entry-fee is 9*s.* 2*d.* less. No stamp is required in any of these cases, but a burgess certificate on a proper stamp is required. It is almost impossible to state with any accuracy the present number of the guild brethren, but there appears to have been 278 entries within the last 30 years.

The foundation of the guildry is very ancient in this town, but no original charters belonging to them are now extant. They are confirmed, however, in the charter of James VI. in 1588, to the town, and in a recent charter of the town's property, granted by his late Majesty, the corporate capacity of the guildry is incidentally recognised. The privileges of the guildry are confined to the limits of the ancient royalty.

Decayed brethren, and the widows of decayed members of the guildry, are entitled to a small weekly allowance out of the fraternity funds. Its affairs have been managed by ten of the members, annually chosen, and have been all along well managed, and are in a progressively improving state. Their income arises;

First.—From Rents of heritable property in the neighbourhood of the town and at North Queensferry.

Second.—From Licences granted to those not entered with the incorporation to sell foreign articles within the burgh, affording an average return of about £26.

Third.—From Fees of intrants.

The original property of the incorporation was of very trifling value, but by judicious purchases, and the rise in the value of land, their heritable property may now be valued at £8,000.

The income of the incorporation is applied, First, In payment of the interest of debt, which at present is £2,675. Second, To the expense of management, amounting to about £10 per annum; and Third, In donations, weekly and otherwise, to decayed members and their families, and also in occasional grants for the purposes of education.

The income of the incorporation amounts to about £350, and will now admit of a small sinking fund for the extinction of debt, keeping the charities at their present amount. The expense of repairs of property, the expenses of the commercial academy, a seminary very numerously attended, of which the guildry are proprietors and patrons, and repairs on farm buildings, &c., have hitherto absorbed the whole surplus revenue.

The expenditure of 1881 consisted of the following items:

	£	*s.*	*d.*
Charities	105	6	3
Interest	104	11	0
Teacher	24	11	6
Public burdens	25	18	11
Incidents	33	2	7
	£293	10	3

The inducements to enter the corporation are not great, the highest rate for a licence to trade being £2 2*s.* annually, and the lowest 5*s.* annually; the allowance for each pauper on the list averages about 1*s.* 3*d.* per week. The abolishing their privileges would only diminish the annual revenue to the extent of £26.

The exclusive privilege of the guildry is complained of as a great grievance, and their right to it has been questioned.

It formed the subject of a written complaint addressed to the Commissioners by Mr. John Allan, grocer, Dunfermline, which seemed to them worthy of investigation.

Mr. Robert Robertson, a partner of Colvin and Robertson, stated, "that the exercise of this privilege created much dissatisfaction, and, as far as he knew, the guildry had never exhibited any charter conferring such an exclusive privilege. Although a guild brother himself, his partner Mr. Colvin is obliged to pay £1 1*s.* annually for carrying on trade along with him." Mr. John Sampson, grocer and spirit-dealer, declared "that he had paid the guildry of Dunfermline a licence of two guineas a-year for six years for carrying on his trade: that he has asked to see the charter, or authority of whatever kind, by which that tax is levied upon him, but none such has been produced in support of the claim of the guildry, and therefore he cannot tell whether it is legally exacted from him or not. Before entering on his present premises, he possessed the house next door; he was then without the royalty, and free from the taxation of the guildry. By moving a few feet he had become subject to this tax: and many people might have made the move without being aware of the difference. They feel it vexatious to be subjected to such taxes, even beyond the amount of their value." Mr. Thomas Beveridge, of the firm of G. and T. Beveridge, drapers, in Dunfermline, stated, that his firm have been paying two guineas a-year for the last 12 years to the guildry, for liberty to carry on their business: that in the same street in which he carries on business within the royalty,

there are other shops as well situated, as he thinks, as his own, which are without the royalty, and the possessors of which can carry on business without entering with the guild brethren or paying them for a licence: declares, that supposing two shops, equally good in other respects, he would be inclined to give at least two guineas more for the shop without the royalty than for the shop within it. He would feel more satisfaction in paying a little more for a shop where he felt that he was paying nothing more than what was justly due, than when he feels he is submitting to a tax which he thinks unjust. Mr. Beveridge gave his opinion, "That those who are not members of incorporations, and who have nothing to do with burgh affairs, succeed in business just as well as those who are members of the burgh incorporations; and he desires nothing but to be let alone, and to follow his own business as he judges best." Mr. Alexander Robertson, who has had many years' experience of the affairs of this town in various departments, and who is at present chairman of the water committee, being examined as to the powers of the guildry in preventing individuals who have not entered with them from following their callings without paying an annual licence to them, declared, "that he considers this right to be established, but he does not consider it advantageous either for the corporation or for the public; and his opinion is, that the same observation applies to the privileges exercised by all the incorporated trades."

The qualification of being a burgess is necessary to entitle a mechanic to exercise his craft within burgh. The fee or entry money payable on his admission is, to a stranger, £2 0*s.* 10*d.*, and to the son or son-in-law of a burgess 10*s.* 10*d.*, besides the stamps, which are £3 0*s.* 2*d.* for strangers, and £1 0*s.* 2*d.* for others. If the father or father-in-law died within the burgh the fees to the town are £2 Scots, or 3*s.* 4*d.* less.

There are eight incorporated trades in Dunfermline, and their names and numbers, as at Michaelmas 1830, are as follow:—

Corporation of smiths	23
„ weavers	166
„ wrights	36
„ tailors	18
„ shoemakers	21, now 20
„ bakers	17
„ masons	17
„ fleshers	10

All these corporations enjoy the exclusive privilege of working at their respective trades within burgh, except the weavers.

Smiths.

The incorporation of Smiths was constituted by an ancient gift of the magistrates and council, renewed by a new gift dated 7th July 1713.

The fees payable by intrants with the smiths' corporation are, for neutrals:

	£.	*s.*	*d.*
1st Speaking pint	0	2	0
2nd ditto	0	15	0
Dinner	2	2	0
Entry to funds	7	10	0
Essay 5*s.*, Booking 1*s.*, Officer 5*s.*	0	11	0
	£11	0	0

For freemen's sons or sons-in-law:

	£.	*s.*	*d.*
1st Speaking pint	0	2	0
2nd ditto	0	15	0
Dinner	2	2	0
Entry to funds	3	15	0
Essay, &c.	0	11	0
	£7	5	0

This corporation is represented to be in a flourishing state, having doubled their funds within the last 30 years. At present they have £150 lent out on bills, and the interest is applied to the ordinary purposes of the incorporation—clerk and officers' salaries, payments to widows, &c., &c. Without the exclusive privilege, they consider that there would be no inducement to enter the incorporation.

Weavers.

With the Weaver corporation the entries are, for neutrals:

	£.	*s.*	*d.*
To the common box £20 Scots	1	13	4
Essay £3 Scots	0	5	0
A banquet	0	9	8
Officer	0	4	10
Booking	0	1	8
Box penny 3*s.* 4*d.*, mortcloth money 15*s.*	0	18	4
	£3	12	10

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For freemen apprentices:

	£.	s.	d.
Essay 3s. 4d., box 16s. 8d.; other articles same as above, making a total of	2	14	6
For strangers' apprentices	0	5	0
For freemen's eldest sons	0	17	3½
For the younger sons and sons-in-law	1	0	7½

Wrights.

With the Wrights' corporation, the entries for neutrals are:

	£.	s.	d.	£.	s.	d.
Deacons' can	0	5	0			
Cutting the essay	0	5	0			
Trades' can	1	0	0			
Essay dinner to trade	2	0	0			
Essay fee	0	15	0			
Entry to trades' fund	7	10	0			
Mortcloth money	0	15	0			
Officer's fee 10s. 6d., clerk 2s.	0	12	6			
				13	2	6
For freemen's sons and sons-in-law				3	9	6

Tailors.

With the Tailor corporation the entries are, for neutrals:

	£.	s.	d.	£.	s.	d.
Speaking pint	0	15	0			
Essay ditto	0	15	0			
Entry to funds	7	10	0			
Dinner to corporation	2	0	0			
Mortcloth money	0	15	0			
Officer 5s., Clerk 1s.	0	6	0			
				12	1	0
For freemen's sons or sons-in-law				3	0	6

Shoemakers.

With the Shoemakers' corporation the entries are, for neutrals:

	£.	s.	d.	£.	s.	d.
Essay appointed	0	15	0			
Entry to funds	7	10	0			
Banquet to trade	2	0	0			
Mortcloth dues	0	15	0			
				11	0	0
Freemen's sons				1	8	6

The funds of this corporation, at 15th October 1833, amounted to £228 10s., £200 of which is invested in heritable security, and the rest on personal security and gas stock; the whole yielding 5 per cent.

Bakers.

With the Bakers' corporation, for neutrals:

	£.	s.	d.	£.	s.	d.
To the trade	7	10	0			
Mortcloths	0	15	0			
Essay and dinner to trade	9	0	0			
				17	5	0
For freemen's sons or sons-in-law				12	18	0

Masons.

With the Masons' corporation, for neutrals:

	£.	s.	d.	£.	s.	d.
To the trade	7	10	0			
Other small dues	1	10	0			
Dinner to corporation	2	0	0			
				11	0	0

	£.	s.	d.	£.	s.	d.
For those having right to the funds of trade	0	3	6			
Other small dues	0	15	0			
Dinner to corporation	2	0	0			
				2	18	6

Fleshers.

With the Flesher corporation, the entries are:

	£.	s.	d.	£.	s.	d.
For the box	2	10	0			
Common court for mortcloth	0	15	0			
Clerk's fees 1s., Speaking pint 11s. 6d.	0	12	6			
				3	17	6

Besides the above, the intrant gives a dinner. No sum is levied annually from any of the members of these corporations. The magistrates grant no licences to unfreemen; but the corporations are in the habit of doing so, on condition of the applicant paying a certain sum to the trade yearly, the amount of which is regulated by the members of corporation for the time, according to the business done by the individual obtaining the licence.

The exclusive privilege of the trades is much complained of, and their title to exercise it is questioned.

Mr. Robert Marshall, flesher in Dunfermline, on being examined, declared, "that he came to Dunfermline to carry on his trade in May last, and has been repeatedly threatened by the corporation of fleshers with prosecutions, to have him fined and debarred from carrying on his business, unless he enters with the corporation: that they hold out to him no advantage from doing so, except that of carrying on his business unmolested by them."

Mr. Alexander Mossman, deacon of the corporation of shoemakers, declared, "that he had been a member of the corporation since 1822; that when he first came to Dunfermline, he paid them a licence of £1 1*s.* a year for leave to work at his trade. That having discovered that others only paid 10*s.* 6*d.*, he withheld payment; but the corporation carried him before the bailies, who ordained him to pay £1 1*s.* a year, although it could not be shown that any person but himself had paid so high a rate before. That there have been no prosecutions in the corporation against unfreemen, the corporation having always avoided lawsuits, and any dispute they have had with the encroachers being always settled by the bailies. That the corporation were once in the custom of appointing visitors, who went round the stalls of the unfreemen frequenting the markets, and inspected their work. That the work was not fairly inspected. That he used to attend the market himself before he entered the corporation, and the visitors were very severe upon him. That he himself has complained of the visitors, and the magistrates decided that no fines should be imposed, without bringing the shoes alleged to be imperfect to the town-house, that the magistrates might judge of them, but since that time no shoes have been taken out of the market from unfreemen."

In the complaint laid before the commissioners by Mr. Allan, grocer, it is stated that in consequence of his having exposed some ladies' and gentlemen's shoes, which he did not manufacture, he had been called upon by the corporation of shoemakers to take out a licence; and though he was successful in defending himself before the bailie court, still he had been saddled with nearly £5 of expenses.

Daniel Turner, nail manufacturer in Dunfermline, declared, "That after he had made some money, working as nailer, he came to Dunfermline to carry on his trade as a master manufacturer, and a demand was immediately made upon him by the corporation of smiths, to enter with them, or to give up his business. He had never heard before of the nailers being obliged to enter with the smiths in any town; however, to save trouble, he agreed to pay them 7*s.* annually for a licence;—that he was successful in his trade, and when the smiths saw that he was so, they raised his licence to 15*s.*; that the unfreemen of Dunfermline find the exclusive privileges of the incorporated trades to be a great grievance, and have had it in contemplation to petition parliament to abolish them."

There are considerable numbers of persons who exercise the different callings of the incorporated trades resident beyond the bounds of the burgh, but within the parliamentary boundary, and who appear to suffer inconvenience from the same causes.

James Carter, wright and house carpenter, residing in Chalmer's-street, which is on Mr. Hunt's property, beyond the burgh, "Declares, that not being a freeman, he, and, to his knowledge, others in the same situation with himself, meet with constant interruption in executing the work of their employers within burgh, from the incorporated trade prosecuting them for fines whenever they are seen working within the royalty, or even bringing work into it. Though the trades of smiths, or masons, or any other of the trades in the town, should wish to employ an unfreeman wright to execute any piece of work for them, yet he could not carry it into town to his customers, although it was all made in his own shop: that whenever an unfreeman is working within the town, he is sure to be molested by some of the least employed of the corporation, who make it their business to be on the outlook, that they may either inform against the workmen, or obtain from them a *douceur* to withhold the information. If it was not for this interference, the unfreemen would just be as well employed as the members of the corporation; and he knows that others, as well as he, think it a great hardship that they cannot attend to the call of a customer, wherever he may live."

Mr. James Walker, cabinet-maker, Dunfermline, having heard Mr. Carter's declaration read over, expressed his concurrence in the same; and stated, "That at one time he had a licence from the incorporated trade, but they refused to renew it to him, although he was willing to pay for it, without assigning any cause but their pleasure."

Mr. John Bullions, wright, in Woodhead-street, made a similar declaration "of the hardship he suffered in his trade from the enforcement of the exclusive privilege of the incorporation of wrights in Dunfermline. He lately got employment in the town, but could not follow it out, as the trade would not grant him a licence. They grant or refuse licences according to their caprice."

Mr. Thomas Morrison, member of the incorporation of shoemakers, declared that he considered the exclusive privileges of the incorporated trades a source of great oppression, and that they have been very injurious to the interests of the town; that even in his own incorporation the rights have been most rigorously enforced against unfreemen. That he has often had occasion to remonstrate against their proceedings on this ground, but he never found them disposed to listen to reason. Unfreemen have the power of exposing shoes for sale upon stalls

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in the streets, on market and fair days; and some years ago his corporation were in the habit of exercising the power of examining the shoes so exposed for sale, by means of visitors appointed by them, and of fining those whose shoes they deemed not sufficient. That in this way they sometimes levied 6*d.* upon one pair of shoes, and 3*d.* upon another, until they realised a sum sufficient to keep them drinking for the whole of the fair day; he himself thought this so unjust, that he erected stalls for the unfreemen beyond the royalty; on which account the magistrates fined him 5*s.* for seducing the people away from the town's market. His erection of the stalls, however, had the effect of doing away the abuse complained of, for the magistrates saw, that if it was persevered in, the unfreemen would erect all their stalls without the royalty, and they therefore prohibited the corporation from visiting the stalls of unfreemen within burgh on market days.

The provost of the town, in his declaration, stated that he does not think the exclusive privileges of the incorporated trades are of any advantage to the community; and that it would be better to have no corporations. Supposing their funds to be reserved entire, and the right of electing officers for their management to be preserved to them, the individual members of the corporations themselves would sustain no injury from having their exclusive privileges taken away. He thinks the exorbitant fees at entry, and the expense incurred in giving treats to the trades, (which serves no good purpose, but encourages dissipation,) very objectionable. The guildry were so sensible of the bad effects from giving entertainments at the entry of new members, that that practice was done away by them some years ago. In his opinion, any person entering a burgess of the town, either guild brother or craftsman, should be entitled to the privilege of trading or working as he pleased, without entering with any particular trade or corporation. The guildry of Dunfermline have never prevented craftsmen from trading, although they are entitled to do so, in right of their exclusive privilege. The fees of entrance of a burgess, payable to the burgh, are very moderate, and the guildry are in the practice of granting licences to strangers, at the rate of from 5*s.* to £2 2*s.* per annum, according to the nature and extent of the trade carried on.

At a public meeting of the inhabitants of Dunfermline, held on the 25th October 1833, resolutions were entered into against the corporation laws; a copy of the minute of that meeting accompanies this Report, as well as a petition to the burgh commissioners, signed by 613 inhabitants.

MAGISTRATES, SETT OF BURGH, &c.

There has been no change in the Sett of the Burgh since 1724, when the number of the council was fixed by a decreet arbitral at 22, including the provost, two bailies, dean of guild, treasurer, old provost, two old bailies, old dean of guild, old treasurer, and 12 other councillors; four extra councillors are joined to the ordinary council for the purposes of election only. The provost, after taking time to consult with other members of the council, gave it as his opinion, "that he did not see any reason for a change of the present number, under the present circumstances; but if the boundary of the royalty were to be extended to the parliamentary boundary, he would be disposed to recommend that an additional magistrate should be given, and that, instead of two bailies, as at present, three bailies should be the number." Many persons, however, interested in the affairs of this town, seem to take a different view as to the propriety of continuing the present number of councillors, and their opinion is succinctly expressed in the words of Mr. Alexander Robertson, who has had much experience in different branches of the burgh management. "As to the present number of councillors, he states his own opinion to be, that the number of the town council is too great; and that, under the present bounds, 12 would be quite enough; and if the jurisdiction were extended to the parliamentary, (which it is clearly his opinion should be done,) 15 would be a proper number. He thinks it would be an improvement to make three bailies instead of two, which is the present number.

A protest having been lodged with the Commissioners in the name of Mr. Thomas Morrison, senior, shoemaker, burgess and freeman in Dunfermline, "against the Scotch Burgh Reform Bill, and all proceedings thereon by the Parliamentary Commissioners," it was thought right to examine Mr. Morrison. He stated that, prior to the passing of the Burgh Reform Act, the different incorporated trades of Dunfermline had the right of sending up a long leet of four to the town council, who shortened the leet to two, and sent back such shortened leet to each of the incorporated trades, who, out of the two names sent back to them, chose each one as their deacon, who was entitled to a seat in council: and besides that, the trades councillors were chosen annually out of the old deacons: so that the trades thus were represented in council. But by the Reform Act, the deacons of the trades have no seat in council, and there are no trades councillors, and the trades have lost the right of being represented in council, which they formerly enjoyed. The declarant would not have objected to this, if the new elective qualification had been sufficiently extensive; but he considers it defective, in so far as it does not give any burgess in the town a voice in the election of the magistrates and council.

POLICE.

The watching, cleaning, lighting, supply of water, paving, and other matters of Police, are regulated by a local Police Act, which was obtained in the year 1811. Previous to that time the supply of water was exclusively under the regulation of the water committee, a body which still exists, and in general still acts independently of the police.

The first water committee was formed in 1764, for bringing a supply of water into the town. The execution of the work was intrusted to persons selected from the town council, the guildry, and the eight incorporated trades.

The first committee demitted their office in 1774, and were succeeded by one solely appointed by the town council.

The water company is recognised in the Police Act of 1811; and it is made lawful to the

magistrates and town council, and fraternity of guildry, to appoint the committee, which must consist of seven members of the town council, and five members of the guildry. Their accounts are kept separate and distinct from the police accounts, and also from those of the town. They have a separate clerk; and all their transactions are kept distinct, except in two cases, where the water committee and police commissioners must act together. First, In constructing new wells in the town: and Secondly, in bringing in an additional supply of water. For the latter purpose a power is given by the Act to levy an assessment upon the inhabitants; but the improvement of the wells cannot be assessed for, but must be paid out of the ordinary income, viz. either a balance of a former assessment, or the produce of the annual rents, and compositions for private pipes. The practice of charging entry money for the use of the wells has been discontinued, as not being authorized by the statute. No assessment has yet been made under the authority of the Police Act; for the additional supply of water, brought in since its date, was not on such a scale as to render an assessment necessary, though, upon one occasion, there was a pretty general private subscription.

Mr. Alexander Robertson, the chairman of the water committee, was examined as to the state of the finances of the establishment. He declared, that about the time when a change was made in pipes of four-inch bore instead of those of two, a debt of £350 was created, and a bill for that amount was granted to Mr. Hugh Coventry, who still remains a creditor to that extent. On 2nd February 1809, £120 was lent by the water committee to the town, and their debt at this time may be considered as reduced by that amount. On 14th April 1812, a docquetted account of Mr. William Beveridge, who was then clerk and treasurer of the water committee, brought out the balance of debt of the water committee (taking into account the transactions of Coventry's bill, and the sum lent to the town) to amount to £333 15*s.* 8*d.* From 1812 to 1822, no accounts were rendered by Mr. Beveridge; when the accounts of these 10 years were laid before the water committee, 25th March 1822, the result was, that £538 13*s.* 1*d.* of additional debt had been incurred. Mr. Beveridge continued treasurer for some time after, but his accounts were never either audited or approved of by the water committee. A sub-committee, who were appointed for the purpose, declined to do so. On 5th October, 1824, Mr. Peebles was appointed treasurer, and he declined to have anything to do with the old accounts; and the accounts from that time have been regularly presented and audited every year; and at the 18th November, 1833, there appears to have been a balance in the treasurer's hands of £84 14*s.* 3*d.* This, of course, was entirely independent of the original transaction with Mr. Coventry, or the £120 lent to the town, or of any transactions or accounting previous to October 1824, when Mr. Peebles was chosen treasurer. The yearly interest of Coventry's bill, however, has always been regularly paid by the water committee.

Mr. Peebles died in 1830, and was succeeded in the treasurership by Mr. A. Kilgour, who holds the situation at present.

The commissioners of police, under the Act of 1811, are the provost, two bailies, dean of guild, treasurer, deacon convener of the trades, three of the deacons of incorporations, the town clerk, and the chamberlain, making of

Ex officio commissioners - - - - - -	11
Appointed *nominatim* - - - - - -	22
Guild brethren by election - - - - -	6
	39

The Act fixes the bounds of the extended royalty, and empowers the commissioners to assess annually to the extent of 1*s.* a pound on all buildings, &c., valued between 30*s.* and £20 of rent, and 1*s.* 6*d.* a pound on the rent of all such property above that sum. The magistrates and council by this Act became bound (after deducting interest and public burdens, salaries, and stipends, payable from the common good) to add to the assessment one-half of the surplus income or revenue of the said burgh; a provision which appears to have been null from its commencement, for, though at one time they affected a show of surplus income by paying £300 in aid of the police funds, it has since been made plain, from the state of their affairs, that they neither have, nor ever had, any surplus funds since the date of the Act, and they have uniformly resisted further payment on this account.

This defalcation of the expected assistance from the funds of the town has tended to embarrass the funds of the police. The assessment is now levied to the full extent of the powers granted by the Act: but this was never contemplated to be sufficient for the purposes of the establishment, unless supported by surplus revenue from the town. The debt, including the balance of a loan from Government, (for which the town is security, and which now amounts to £2,032,) is stated in the account made up at 1st September, 1833, to be - - £3,090 4 3

At Whitsunday, 1829, the debt was - - - 2,900 0 0

Increase in five years - - - - - - £ 190 4 3

During that time, statements of the debt, and abstract statements of the receipts and disbursements, have been regularly printed, for the use of those interested, annually. And there is every appearance, latterly, of a careful management, and a due attention to the expenditure, and a faithful collection of the revenue. The abstract of the year's accounts, 1st September 1833, gives a fair view both of the income and the ordinary necessary expenditure of this establishment, and which apparently cannot be cut down if the establishment is to be kept efficient.

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INCOME.

	£.	s.	d.	£.	s.	d.
1. Collected of the assessment for 1833	386	13	0			
Arrears received	87	8	3			
2. Cash for dung sales	154	13	1			
3. Police fines from Mr. Kilgour	3	0	0			
				631	14	4

EXPENDITURE.

1. Interest of debt, salaries, &c.	181	9	10½			
2. Management of street manure	198	18	8			
3. Paving and repairs of streets	124	6	5			
4. Lighting	107	18	1			
5. Sundries, stationery, &c.	33	3	11			
				645	16	11½

There is thus a deficiency of £14 2*s.* 7½*d.* in the current transactions of the year; and this although nothing is attempted beyond keeping the establishment together. Any improvement on the burgh can only be undertaken by voluntary subscription.

Of the debt which has been accumulated on this establishment, £2,032, as already stated, is owing to Government, being the balance, £1,600, of a loan acquired from the Exchequer Bill Commissioners some years ago, and of an accumulation of interest on that balance, amounting to £432. From the minutes of the police commissioners it appears, that in January 1822, the proceeds of the Exchequer loan of £2,000 were lodged with the Bank of Scotland, amounting, after deduction of premium, brokerage, and charge of the securities, to £1,977 10*s.*

The nature of this loan may be ascertained from the perusal of the six documents, in regard to it, given in with the Report. It was expressly stipulated that the money advanced should go solely to the improvement of the town, and that certain bills, due by the police commissioners, should be postponed to the debt now incurred; and a deed of consent of the creditors holding these bills appears to have been executed, and a declaration, and deed of agreement and postponement, signed by Messrs. David Wilson, William Beveridge, and William Anderson. As far as the Commissioners could ascertain from the accounts they were able to collect of the proceedings of the police commissioners at this time, it would appear that, so far from these bills being postponed, and the £2,000 drawn from Government being applied to the purposes for which it was asked and obtained, among the first uses to which the money was put, was that of retiring by these funds, one at least, if not more, of these very bills. Mr. James Douglas, the present clerk to the commissioners, states, that "he has in his possession certain vouchers of sums drawn out of the Bank of Scotland, from the produce of the Exchequer loan deposited there, which were delivered to the declarant by Mr. Simpson, and that there are vouchers to the extent of about £1,000, in the form of orders on the bank, certified by the finance committee; that these orders only show the amount of each draft, but not its object; that, besides these orders, the declarant has other vouchers in his hands, likewise delivered by Mr. Simpson, covering an expenditure of upwards of £2,000; that these were, in general, bills granted chiefly by the commissioners, and some of them of so old a date as 1815, and one by Mr. Simpson himself to Mr. Anderson, in 1819, for a balance due by the commissioners to Anderson: that these bills appear all to have been retired by Simpson; but whether they were paid from the money in the Bank of Scotland, or otherwise, does not appear, except in the case of one bill for £783 10*s.*, granted by the commissioners, of date 20th June 1821, which bears upon the back apparently the only evidence of its retirement: '*This sum of* £786 12*s.* 3*d.* (*including* £3 2*s.* 3*d. of interest on the original bill*) *placed to the debit of the Commissioners, under Dunfermline Police Act, with the Bank of Scotland. D. M.*' The initials are known to be those of David Mitchell, the accountant of the bank."

This transaction leads to the presumption that some irregularities were committed in the mode of appropriating the advance made by Government for the improvement of the town, but the Commissioners were unable to procure any more satisfactory statement of the application of this loan.

The Commissioners totally failed in their attempts to obtain inspection of any books or accounts bearing reference to the affairs of the police establishment, about the time of the loan from the Exchequer Bill Commissioners. Mr. William Simpson, who was treasurer to the police commissioners at the time, declares, that the money was drawn out of the bank from time to time by him, upon orders certified by the finance committee; that in November 1822 he was authorized to draw out the whole *balance* then remaining in the bank, and to remit £200 to Mr. Holden; that in the intervening period a variety of orders had been given by the finance committee upon the account in the bank, but these all related to the expense of obtaining the Act, or expenses which it fell to the police commissioners to pay: that distinct accounts of charge and discharge were kept by him at that period, and were delivered over by him to the auditors of the commissioners' accounts, when met in the town-house, and a discharge granted by the commissioners to the declarant, which will be seen in the said accounts when produced. The declarant supposes these books must be still in Dunfermline; his impression is they ought to be there. The declarant is aware that it was the contemplation of the commissioners, and the reason held out for borrowing the money, that a special improvement should take place in the streets, plans and estimates of which were put in the

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hands of the Exchequer Bill Commissioners; that the money received from them was not expended in these objects; still that the clearing off the debts which were discharged by that money so far relieved the police commissioners, as to enable them to overtake part of these improvements, and to considerable extent; that he believes that £1,400 or £1,500 have been paid out on the streets alone since this loan was received.

This declaration is contradicted in part by Mr. James Douglas, the present clerk of the commissioners of police, who states that "he was one of the auditors when Mr. Simpson gave in his accounts, on 13th May 1824, and he states, on the authority of the minute book now in his hands, and from his own recollection, that no discharge was given to Mr. Simpson on that occasion; that Mr. Simpson had given in a list of arrears, which, when added up, did not correspond with the sum of the arrears, as stated in the account; that Mr. Simpon said he would complete the list of arrears by the following Monday evening, and, by the minute of the 18th May, he produced a book containing a list of arrears, but that there was still a deficiency of £200, and, as the accounts could not be passed, no discharge was given to him; that afterwards an action was raised at the instance of Mr. Strachan, who succeeded Mr. Simpson as treasurer to the commissioners, for recovery of the balance due upon Mr. Simpson's accounts, and in 1825, being the following year, Mr. Simpson raised a counter-action against the commissioners; that these actions fell asleep, and remain so; that the declarant has this day looked at the process of the Commissioners *v.* Simpson, and, in the inventory of that process, No. I. is described to be the account of Mr. Simpson's intromissions with the funds of the commissioners, but that book is not with the process; that the declarant remembers to have seen the book, and the inventory bears that it was delivered to Mr. Ronaldson, the agent for the defender."

Mr. Smith Ronaldson, being examined as to his knowledge of this book of accounts, stated, "that he has no recollection of having seen the book referred to, but he must either have seen it, or other accounts of police kept by Mr. Simpson, to be enabled, as he did, to make up a state of his affairs. That, to the best of his recollection, he only made out one paper of defences for Mr. Simpson, and after a counter-action was raised upon the part of Mr. Simpson, it appears, from the declarant's books, that the action was allowed to go to sleep. That he has made a search among his papers this day, to see if he had any document which could throw light upon this subject, and in Mr. Douglas's presence, but hitherto he has been unsuccessful; and after the diligent search he made to-day, he is positive the book is not with him. That the declarant has only been in his present office two and a half years, and on moving there, placed all such books of accounts in his possession in one place, and every one of these books he has gone over to-day, without finding the book in question."

GAOL.

The provost, upon being examined as to the state of the gaol in this town, declared, "that in consequence of the great increase of the population of the town and neighbourhood, he considers the accommodation of the gaol to be quite inadequate to the situation, and that it is impossible to make a classification of the prisoners. Being situated in one of the principal thoroughfares of the town, it is rendered quite unsafe, from the easy communication with the passengers on the streets. It is barely sufficient to accommodate debtors alone, and without a greater power of separating the prisoners, and of providing some work or occupation for them, it cannot be expected to be considered as a place of punishment, but rather to be courted by criminals as a temporary asylum."

Mr. Alexander Robertson stated his opinion, "that the present gaol is inadequate for a gaol for the whole western district of Fife; and that it is a great hardship that the burgh should bear the whole of the expense."

The Commissioners visited the gaol, and though they found it pretty well kept, it is deficient in size, and entirely devoid of those modern improvements which conduce so much to cleanliness and the health of the inmates of a prison:

DOCUMENTS.

The following Documents accompany this Report:

1. Answers to Heads of Inquiry issued by the Commissioners, 14th October 1833.
2. Rental of Lands sold to Mr. Downie of Appin.
3. Statement by Mr. A. Robertson of the Income and Expenditure of the Burgh, from 1808 to 1825 inclusive.
4. Note of Composition paid to Town's Creditors.
5. Vidimus of the Town's Affairs, as at Martinmas 1833.
6. Answers by Guildry Clerk to Notes of Inquiry issued by Commissioners.
7. Ditto by Incorporation of Smiths to ditto.
8. Ditto by Weavers to ditto.
9. Ditto by Wrights to ditto.
10. Ditto by Tailors to ditto.
11. Ditto by Shoemakers to ditto.
12. Ditto by Bakers to ditto.
13. Ditto by Masons to ditto.
14. Ditto by Fleshers to ditto.
15. Complaint of John Allan to the Commissioners.
16. Protest by Thomas Morrison, sen., against the Scotch Burgh Reform Bill.
17. Copy Resolutions of Public Meeting of Inhabitants, 25th October 1833.
18. Petition of the Magistrates, &c., for the Abolition of Incorporations, to the Commissioners.
19. Statement by Alexander Robertson in regard to Water Committee.
20. Act for Paving, Lighting, &c., the Streets of Dunfermline, 1811.
21. Queries on Application for Loan, and Answers thereto.
22. Correspondence and further Answers to Queries on Application for Loan.

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23. Copy Consent of Creditors holding Bills.
24. Declaration and Deed of Agreement and Postponement, by David Wilson and others, in favour of the Exchequer Bill Commissioners, 1821.
25. Bond and Assignation by the Commissioners of Police of Dunfermline to William Holden, Esq., 1821.
26. Bond of the Magistrates of Dunfermline to the King, 1821.
27—31. Police Accounts from 1829 to 1833 inclusive.
32. Examinations relative to the Burgh of Dunfermline, 14th, 15th, 16th October 1833.
33. Examinations relative to ditto, 4th, 5th, 6th December 1833.
34. Queries to and Answers by Mr. A. Marshal, February 1834.

ROBERT GRAHAM.

Additional Document accompanying this Report:
35. Declaration of William Renny, W. S., 27th October 1834.

J. C.

Edinburgh, 9th February, 1835.

Productions No. 36, 37.

Since the above Report was finished, we have received a letter from the sheriff of the county of Fife, dated the 6th instant, inclosing a letter addressed to him by the provost of Dunfermline, dated 17th December last, stating that, on account of the reduced circumstances of the burgh, the corporation could no longer allow the sheriff court for the western district of Fifeshire to be held in their town-house gratuitously, as had been previously done, and intimating that, till some arrangement could be entered into between the burgh and the county for the use of their town-house, they would expect a stated sum to be paid to them annually for the accommodation given to the sheriff court. It is not for us to determine whether a sheriff is entitled to accommodation for his court in the town-house of the royal burgh, where it is established, without paying for it; but we deem it proper to bring under notice the demand which has been made by the provost of Dunfermline upon the sheriff of Fife, and which the latter appears to think inadmissible.

The following additional Documents accompany this Report:
36. Letter Provost Russell, Dunfermline, to the Sheriff of Fife, 17th December 1834.
37. Ditto the Sheriff of Fife to the Commissioners, 6th February 1835.

JAMES CAMPBELL.

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REPORT

ON

THE BURGH OF DYSART,

(FIFESHIRE.)

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DYSART.

THE Burgh of Dysart is situated on the northern coast of the Frith of Forth, and is understood to have had a charter from Charles II.; but it has been lost or mislaid. HISTORY.

Before that time it stood high as a place of trade, particularly in shipping, a considerable trade being carried on with Holland in the export of coals and import of iron, &c. It is stated at different periods to have had from 30 to 50 brigs, or small vessels, belonging to its port. Mr. Tucker, however, only mentions four vessels as belonging to Dysart in 1656, the largest of which is said to have been of 50 tons, two of 20 tons, and one of 14 tons burden.

From the account given of this burgh to the Commissioners who visited it by appointment of the convention of royal burghs, in 1692, it appears to have been considered a flourishing town, till the period of the civil wars, in 1644-5. The expense of erecting the harbour, for which they borrowed 15,000 merks, and law processes with two powerful neighbours, are said to have hastened the ruin of the town, already burdened with debts. The trade is reported to have been then entirely gone, and two-thirds of the town uninhabited. There were only two small doggars, and one other ship, then belonging to the burgh.

From the records of the custom-house it appears that, in 1788-9, 21 vessels belonged to Dysart, amounting in burden to 3,359 tons;—in the statistical account, in 1794, 25 vessels, amounting to 4,075 tons, valued at £30,000, and employing 249 men, are said to have belonged to the port. Some of these vessels, however, were employed by Government as transports or store-ships, and not engaged in the trade of the burgh. The trade of Dysart has decreased greatly since that period, the principal cause of which appears to have been the growing prosperity of the neighbouring town of Kirkcaldy. At the present time there are eight vessels belonging to Dysart, comprising 638 tons. The vessels resorting to the port with or for cargoes, belonging to foreign ports, and coasters, in 1833, were computed at 78; in all 5,296 tons. The export trade consists of coals, salt, and stones. Flax-spinning, and the weaving of coarse linens, give employment to a portion of the inhabitants.

The harbour wants deepening, and, in unfavourable weather, must always be unquiet. A great improvement has lately been made on it by the construction of a dock, in which vessels may lie safely; and this, in conjunction with a patent slip, which has been recently erected at a considerable expense, may enable the place to sustain the trade which it still possesses, and to improve it, in as far as local capabilities will admit.

POPULATION.

The Population of the town and parish of Dysart, by census 1831, was 7,104. The population of the burgh, including several streets not within the royalty, was		1,801
The following villages were, from their vicinity, comprehended within the parliamentary boundary, viz.:		
Pathhead	2,090	
Sinclairstown	1,240	
Gallatown	1,053	
Hackleymuir	434	
		4,817
Making the total population within the same		6,618

Leaving out only 486 of the whole parish.

In 1801 the population of the parish was	5,385
1811	5,506
1821	6,529
1831	7,104

PROPERTY. The Property of this burgh consists of a farm, some gardens and houses, a harbour, affording shore dues and anchorage money, a valuable quarry close by the harbour, and some small feu duties.

REVENUE. The Revenue drawn from these sources, in the year ending 15th October 1833, according to accounts prepared for public inspection, was as follows, viz.:

	£.	s.	d.	£.	s.	d.
1. Rent of farm	199	17	11			
Abatement granted	45	0	5			
				154	17	6
2. Gardens				40	1	10
3. Houses				32	15	0
Carried forward				£227	14	4

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	£.	s.	d.	£.	s.	d.
Brought forward				227	14	4
4. Bowbutts				3	5	0
5. Feu duties				0	4	3
6. Customs, shore dues and anchorage, slip and dock dues	242	8	0½			
Deducting expenses of docks, harbour, and slip	124	5	6½			
				118	2	6
7. Stones sold	325	8	3½			
Deduct expenses of the quarry	169	18	10½			
				155	9	5
				504	15	6

EXPENDITURE.

The Expenditure of the same year was as follows, viz.:

	£.	s.	d.	£.	s.	d.
1. Interest of debt	141	9	4½			
2. County cess and land tax, rent and feu duty	2	13	11			
3. Stipends, schoolmasters' and officers' salaries, &c.	208	3	7			
4. Repairs, roads, cleaning streets, &c. £63 19 4½						
Off dung sold 15 16 0						
	48	3	4½			
5. Gaol dues	0	3	9			
6. Miscellaneous	21	3	4½			
				421	17	4½
Making a surplus revenue of				£82	18	1½

It is probable that this year's accounts give a fair average view of the ordinary receipt and expenditure of the burgh. In the five years' accounts which were returned to Parliament, in obedience to the resolution of the House of Commons, 10th July 1832, the average annual revenue amounted to £609 17 0

And the average expenditure to 499 2 9½

Making a surplus revenue of £110 14 2½

It is to be observed, however, that within that period upwards of £4,000 had been expended besides in obtaining a patent slip, and repairing and improving the harbour; but these were casual expenses, not connected with the ordinary annual outlay. Part of them were absolutely necessary, and the rest were highly expedient.

In the prospective view of the necessary future expenditure of this town, given by the managers, the net amount of officers' salaries is stated to be £ 80 17 0

	£.	s.	d.
Interest	122	14	2
Rent, feu duties, and annuities	4	3	8
Stipends	63	13	9
Schools	44	1	3½
Repairs of houses, streets, and harbour	50	0	0
Cleaning, deducting produce of dung	30	0	0
Miscellaneous	30	0	0
	£425	9	10½

Which is about the same expenditure as last year, though rather under the average of former years.

DEBT.

The Debt of the burgh, at Michaelmas 1833, was £3,069 9 1

Of this sum £1,200 is heritably secured.

There was at the same time due to the town, including £12 0*s.* 9*d.* in the treasurer's hands 457 17 6½

So that the net balance of debt may be stated at £2,611 11 6½

The whole property of the burgh is valued at £10,100.

ALIENATIONS.

Except in some small excambions with Lord Rosslyn, the last of which alone has taken place within the last 40 years, and on which occasion half an acre of the town's property was given over for an acre received from his Lordship, there have been no Alienations of the property of the burgh, according to all the information the Commissioners could get upon the spot.

TAXATION.

There are no Taxes in this burgh but the cess, which is apportioned by stent-masters appointed by the council or managers, and is levied only within the bounds of the royalty. It is levied partly on lands, at the rate of 4*d.* per pound of rent, and partly on trade. The cess on trade is levied at the discretion of the stent-masters, without any fixed rule, but according to the supposed ability of the party charged.

DYSART.
1823 to 1832 inclusive.

The sums collected vary a few shillings, one year being compared with another; but on the average of the last 10 years the following are the proportions:

Land.	Trade.	Total.	Paid to Exchequer.	Expenses of Collection, and bad Debts.
£21 10 $2\frac{8}{12}$	£4 5 $0\frac{9}{12}$	£25 15 $3\frac{5}{12}$	£19 10 0	£6 5 $3\frac{5}{12}$

There are no exemptions from this tax.

The magistrates have been in the use of drawing the ordinary dues of the port and harbour, which are included in the foregoing account of the common good. A table of the shore-dues on goods and anchorage on vessels was returned along with the other papers to the House of Commons last year (1832), which is stated to be the table in ordinary use, and appears to rest on usage alone. No written title to collect rates seems now to exist. The table produced is said to have been slightly altered from another table formerly in use, and authorized by a special Act of Parliament, which was to be in force for 21 years, and has now expired.

JURISDICTION.

The Jurisdiction of the magistrates extends to the bounds of the royalty only. A great advantage would arise from extending it to the places in the immediate vicinity of the town, as questions have often arisen as to what are the real bounds of the royalty, and it is not very easy at all times to get such questions decided. The general wish of the burgh seems, however, to be confined to the amalgamation with the royalty of the nearer streets and houses which are immediately connected with it, and yet are beyond its bounds. In so far as the judicial powers of the magistrates are concerned, it seemed to be admitted that it would be advisable to extend their jurisdiction to the parliamentary boundary; but that, in that event, the management of the revenue and expenditure should be kept distinct, as far as regards Pathhead and Gallatown. The reasons assigned for this did not appear to be very conclusive, and seemed to rest merely on the apprehension that the addition of these places to the burgh might cause too great a proportion of the funds of the burgh to be appropriated to their improvement, to the detriment of the ancient royalty. It is not improbable, that, in the event of the larger extension, some difficulties might arise as to the mode of administering the different revenues of the districts which would be conjoined; but if these difficulties can be got over, it appeared to be the opinion of those upon the spot, who were best capable of judging, that the extension would be desirable.

The Bailie Court was not considered of great use, in as far as related to civil cases. This arose from the unfrequency of such cases being brought before it. No record was kept of the civil cases prior to 1828. In that year there were two cases.

In 1829	-	-	6
In 1830	-	-	6
In 1831	-	-	4

Before 1828 the number is believed to have been very trifling, not more than the average of the years which are given. There is no record of any criminal cases. The town clerk has acted as assessor to the magistrates. It has happened that, on occasions of difficulty, the assistance and advice of an agent in Edinburgh has been resorted to. The town clerk himself gave an opinion, which he believed to be a very general one, that if the extension of the Sheriff's Small-debt Court became more general it would probably become altogether unnecessary, in a town like Dysart, to have civil cases decided by the magistrates. He stated this upon two grounds, viz.: That the sheriff would be better able to judge in them; and that it would be attended with less expense. As to petty delinquencies, and breaches of the peace, he was of opinion that it was highly desirable that the power of punishing them should remain with the magistrates.

PATRONAGE.

The civil appointments under the control of the magistrates and council are,

1. The Town Clerk.
2. The Treasurer or Chamberlain.
3. Two Officers, one of whom acts as gaoler.
4. Shoremaster, or Harbour-master.

These officers are appointed by the present managers, who act in place of the magistrates, the burgh being at present disfranchised. No price or consideration was given by any of them for their appointment. They are all held at the pleasure of the council. None of the duties are done by deputy. Security is given by the treasurer only, who is paid by a salary of £15 15*s*. The books and vouchers are laid upon the table of the town-house at regular stated meetings, once a month, for the inspection of the managers, and a standing committee of inhabitants, elected at a public meeting, whom the managers have admitted to a share of the administration. The town clerk's salary is £15. The harbour-master is manager of the quarry, as well as of the shore dues; and for the whole of his duties he receives a salary of £31 4*s*. The first officer receives £7 10*s*., and acts as gaoler; and the other £4. Both have suits of clothes once in two years. The town clerk is the only officer who is paid besides by fees; and he has fees in cases brought into court, and also fees on the entry of burgesses, but these are not great.

The burgh has no patronage of churches, no appointment of any university teacher, and no bursaries. There is one school, called the Burgh School, of which the magistrates and council have the patronage. It is the only school within the parish which is recognised as a

DYSART.

parochial school. There is one teacher in it, and he is paid, besides the maximum salary, £7 per annum in place of a dwelling-house, and two bolls of meal in lieu of a garden. This is paid from the common good. The fees of teaching are: English 3*s.* per quarter; 1*s.* additional for writing and arithmetic; and 2*s.* 6*d.* additional for Latin. No change has been made in the fees for a period much beyond 10 years. The hours of teaching are fixed by the patrons; in all other respects the government of the school is intrusted to the master. The number of scholars attending annually, on the average of the last 10 years, is 76. There are, occasionally, scholars for Greek, as well as Latin. Several small mortifications were made for the support of the school about the middle of the 17th century. It has been thought, both by former magistrates and the managers, that the heritors of the parish should bear a proportion of the expenses of this school, in which case the managers would be ready to surrender to them a corresponding proportion of the patronage.

EXCLUSIVE PRIVILEGES.

There is no guildry, and there are no corporations in this burgh. Burgesses and freemen of Dysart, residing in the burgh, or in the mansion, orchard, or rectory, and liberties thereof, pay only two-thirds of the rates or shore duties on all goods imported by them, with the exception of coals.

ELECTION OF MAGISTRATES AND COUNCIL.

Appendix C., p. 52, to Report, Committee House of Commons 1793.

The Council consists of 24, including two bailies and a treasurer. Prior to the 3 & 4 Will. IV. the old council chose the new out of leets given by each member of two persons. Each of the bailies made a leet of six, out of which the old and new council chose six, and out of that six the two bailies were elected. The bailies and new council chose the treasurer out of a leet of two given by the old treasurer; there was no restriction upon the re-election of either magistrates or councillors. In consequence of an error in the election of the council at Michaelmas 1831, the burgh was disfranchised by judgment of the Court of Session, which in December of that year appointed three managers to take charge of the affairs of the burgh.

At last election the council ought to have been chosen in terms of the 3 & 4 Will. IV., but it was found impossible to complete a council, owing to the small number of persons qualified to fill the office resident within the burgh. There is no provision in the statute for managers remaining in office when the election of a council is not completed. The burgh, therefore, again applied to the Court of Session, which of new appointed managers to take charge of its affairs.

The number of persons resident within the proper bounds of the burgh, whose rents in property or tenantry amount to £10 per annum and upwards, is 47, (without deducting females,) of whom 29 or 30 are burgesses. The number of such persons whose rents amount to £5, but do not amount to £10, is 53, (without deducting females,) and 20 of them are burgesses. The number of persons resident beyond the proper bounds of the burgh, but within the parliamentary boundary, whose rents in property or tenantry amount to £10 per annum and upwards, is 124. The total number of electors for a Member of Parliament is 106. The number of persons whose rents amount to £5, but do not amount to £10, is 81.

It seemed to be the general opinion in Dysart, that, in the present state of the burgh, or even if it were extended, so as to take in the streets and houses adjacent to it, the qualification for the elective franchise is greatly too high; but that, in the event of its being extended to Pathhead and Gallatown, there would be a sufficient constituency, and the £10 franchise might be low enough. All the individuals connected with the management of the town's affairs seemed to concur in opinion that 12 councillors would be quite a sufficient number for the burgh, and that they would be much more easily assembled, and the business much more efficiently done, than by 24.

The burgh of Dysart has afforded a practical proof for some years that the affairs of a town may be well administered (as under the present system there) by three managers selected from the most respectable part of the community; and it may, perhaps, be doubted, whether the same advantages would be gained to the present burgh, by resorting to its municipal government.

POLICE.

There is no special Act of Parliament for watching, cleaning, lighting, supply of water, &c. It has not yet been taken into consideration whether or not the burgh should take the benefit of the New Police Act. At present the ordinary matters of Police are regulated by the managers; and the expense is defrayed from the common good. For some years back the town has not been lighted.

DOCUMENTS.

The following Documents accompany this Report:

1. Abstract of the Revenue and Expenditure for the Year ending 15th October 1833, and Statement of the Debts and Property of the Burgh, with Explanatory Notes.
2. Amount of Cess levied, collected, and paid to Exchequer, on the average of 10 Years.
3. Return by the Schoolmaster, 1st November 1833.
4. Examinations relative to the Burgh of Dysart, 1st November 1833.
5. Plan of the Parliamentary Boundaries of Dysart.

ROBERT GRAHAM.

3/5

REPORT

ON

THE BURGH OF EARLSFERRY,

(FIFESHIRE.)

EARLSFERRY.

EARLSFERRY is a royal burgh, situated in the county of Fife. Wishing, it is believed, to avoid expense, it had not exercised the privilege of sending a Member to Parliament for a considerable time before the Union of England and Scotland, and was in consequence not included in the classes of burghs which jointly sent representatives to the British Parliament prior to the date of the 1st and 2d William IV.

Since the date of the 1st and 2d William IV., parties qualified in terms of it, resident within the burgh, have voted in the election of a representative in Parliament for the county of Fife.

POPULATION. There are nine £10 voters within the burgh, and 46 inhabitants, whose rents amount to £5 and upwards, but not to £10.

PROPERTY. The Property of the burgh consists of a little more than an acre of land, a town-house, a gaol, a weigh-house, feu duties, and a ruinous harbour; they have also a servitude of playing golf over a piece of link ground.

Debts due to the burgh, £2 16*s.* 3*d.*

REVENUE. The Revenue of the burgh for 1832-3 was,

	£.	*s.*	*d.*
Of land	1	12	6
Petty customs	1	5	0
Right to catch rabbits on commonty	1	7	0
Quarry on sea-shore	1	12	0
Sea ware	12	0	0
Feu duties of lands and houses	17	10	6
Entries of vassals	1	10	0
Miscellaneous	0	5	0
	£37	2	0

EXPENDITURE. The Expenditure during the same period was,

	£.	*s.*	*d.*
Salaries of town clerk and officer	2	12	0
Interest on debt	4	10	0
Public burdens	0	16	8
Repairs and improvements	13	3	11½
Entertainments to council at annual election and King's birth-day	6	17	4½
Debt paid	10	0	0
Miscellaneous expenditure	3	16	5½
	£41	16	5½

DEBT. The Debt due by the burgh is £224. The debt has been occasioned by a lawsuit regarding rights of property and servitude over the Links, which has been twenty years in dependence.

TAXATION. There is no Tax, except the petty customs, levied by the magistrates.

JURISDICTION. The magistrates have the usual Jurisdiction of magistrates of royal burghs. It extends over the royalty. They have entertained five civil and one criminal cause since 1820.

PATRONAGE. The magistrates have no Patronage but of the burgh officers.

EXCLUSIVE PRIVILEGES. There are no burgesses but the proprietors within the burgh; no guildry; and no incorporated crafts.

ELECTION OF MAGISTRATES AND COUNCIL. The affairs of this burgh are administered by a Council consisting of from 16 to 20 members, elected in the following manner:—The bailies make up a leet of nine for bailies, and three for treasurer, and submit them to the council for approval. If approved of, the bailies and council first, and then all persons infeft in property within the burgh, vote on these leets for three bailies and a treasurer. When those office-bearers are chosen, they appear, and nominate immediately any number of councillors from 16 to 20.

The election of magistrates in this burgh ought now to be conducted according to the provisions of the 3rd and 4th William IV.; but as the council consists of from 16 to 20, and there are only nine persons qualified to be elected councillors within the burgh, that is impossible. Of consequence, there was no new council elected in November last, and the old council remained in office in terms of the statute. The number of councillors is much too great.

POLICE. They have no special Police establishment.

DOCUMENT. The following Document accompanies this Report:

Answers to Heads of Inquiry issued by the Commissioners, 1833.

JAMES CAMPBELL.

REPORT

ON

THE CITY OF EDINBURGH,

(EDINBURGHSHIRE.)

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EDINBURGH.

EDINBURGH has been so long known as the metropolitan city of Scotland, that any topographical description may be spared. As an inhabited town or burgh, its extent was anciently very limited, stretching from the castle and its precincts along a narrow ridge, bounded by two deep valleys, till it came into contact with the property of Holyrood-house, on which the burgh of Canongate was established. On all sides it was surrounded and closely hemmed in by properties chiefly ecclesiastical, but partly also in the hands of laymen; nor was it till a comparatively recent period that it began to be expanded on both sides beyond its ancient limits, until it has attained an additional magnitude, very far exceeding that of the ancient burgh. Over certain portions of this contiguous territory the burgal character has been partially extended, but, as to a great remaining portion of the whole mass, no such union has hitherto taken place; and what in its popular acceptation now constitutes modern Edinburgh is composed of various and heterogeneous parts, subject to different jurisdictions, and as yet united together only for the election of Commissioners to Parliament, under the recent statute for amending the representation of the people in Scotland.

Besides various districts subject only to the jurisdiction of the sheriff of the county, the boundaries fixed by that statute include within their limits the following distinct jurisdictions:

1. The Royalty of Edinburgh, ancient and extended.
2. The Burgh of Regality of Canongate.
3. The Burgh of Barony of Portsburgh, Easter and Wester.
4. Calton.

SECTION I.

History and Charters of Edinburgh.

Charters.

The first establishment and early history of Edinburgh as a burgh royal cannot be now traced from the Charters and muniments preserved in the archives of the city; but, by means of the scanty lights derived from other sources, its existence as a King's burgh may be discovered in the reign of David I., and before the middle of the 12th century. In the oldest existing charter to the abbot and Convent of Holy Rood, King David gives to them "quadraginta solidos de *meo burgo de Edwynesburg* singulis annis, et redditum centum solidorum singulis annis, ad indumenta canonicorum de cano meo de Perth, et hoc de primis navibus que negociationis causa veniunt ad Perth; et si forte non venerint, concedo prefate ecclesie de *meo redditu de Edwynesburg* quadraginta solidos," etc. "Et unum toftum in *burgo meo de Edwynesburg* liberum et quietum ab omni consuetudine et exactione." "Concedo etiam eis herbergare quoddam burgum inter eandem ecclesiam et *meum burgum;* et concedo ut burgenses eorum habeant communem (libertatem) vendendi et emendi res suas venales in *foro meo* libere et absque calumniâ et consuetudine, sicut *mei proprii burgenses*," &c.

The language of this charter has by some been regarded as at most equivocal, and as indicating the existence of Edinburgh as a burgh in demesne rather than as a burgh royal, in the modern sense of the term. The distinction, as applicable to towns within the demesne of the Crown, is not very easily traced, and it may be true that the King's burgesses of Edinburgh (*burgenses mei*) had not been then incorporated, or erected into a proper legal community; yet it seems abundantly manifest that they were then possessed of certain privileges of traffic, and that tolls and customs were exacted, and burgal rents, or *maills*, paid by the burgesses for their several *tofts*, or possessions, for the use of the Crown. All this is consistent enough with the supposition that the burgesses of Edinburgh were then rather tenants at will than the permanent owners of real property in the burgh, resembling, probably, in that respect, the *kindly* tenants of the abbot of Holyrood, for whose accommodation he was, by this charter, permitted to establish a burgal habitation (*herbergare quoddam burgum*), situate between the abbey and the burgh of Edinburgh. In this permissive grant, which led to the erection of the burgh of Canongate, we have one of the earliest examples of those establishments so well known afterwards as burghs of barony.

But, whatever may have been at this time the feudal condition of the people of Edinburgh, it is certain that, from a very early period, there had belonged to the Kings of Scotland an extensive territory surrounding this ancient fortress; and that, either in the reign of David I., or more probably in the reigns of his sons, Malcolm and William, when the establishment of Edinburgh as a burgh royal is on all hands admitted, very valuable grants of forest land had been made to the community, either for the general support of their municipal government, or for the use of its individual members. Unfortunately none of these earlier grants are preserved, nor in any of the later charters of confirmation are any of them recited or alluded to; so that the precise extent of the property originally bestowed on the burgesses of Edinburgh can only be conjectured from what remained in their possession at much later periods. For the same reason, it can only be conjectured what was the original extent of that privileged territory within which, in reference to unfreemen, they had an exclusive right of traffic, and were entitled

EDINBURGH.

to exact tolls and customs; but there seems no reason for doubting that it coincided with what was ultimately constituted into the sheriffdom of Edinburgh Principal, bounded by Edgebuckling Brae on the east, and the Water of Almond on the west; on the south by the boundaries of the shires adjoining to the shire of Edinburgh; and on the north by an imaginary line along the middle of the Frith of Forth.

In common with the other burghs royal of the kingdom, and agreeably to their original constitution, the burgesses of Edinburgh paid each a certain fixed rent for his separate toft or tenement. These rents, or *firmæ burgales*, were collected by the bailies of the burgh as stewards for the Crown; and were accounted for in Exchequer to the Great Chamberlain of Scotland, together with the issues of the courts of justice within the burgh, (*exitus curiarum*,) subject, however, to deductions, not only of rents not recovered, and of payments made in obedience to royal precepts, as in the case of Holyrood-house under the charter quoted above, but also of such allowances or graces, on public grounds, as the King, or his chief minister in this department, might have conceded to the community in relief of their other burdens. This continued to be the ordinary course of practice as to Edinburgh down to nearly the close of the reign of Robert Bruce, when a system already well known in England began to be adopted, of granting to the communities of burghs the burghs themselves, with all their privileges and immunities, to be holden of the Crown in feu-farm, for payment of fixed feu duties, in commutation of those fluctuating payments resulting on a balance of accounts between the bailies and the Great Chamberlain. It is one of the indications of the rising importance of Edinburgh that it appears to have been the first to obtain a charter of this description, dated only a very few weeks before the demise of the King, in 1329. It is entitled, "Carta assedationis Burgi de Edynburgh ad feudi firmam," and is as follows:

"Robertus Dei gratia Rex Scottorum, Omnibus probis hominibus totius terre sue, Salutem: Sciatis nos dedisse, concessisse, et ad feodifirmam dimisisse, et hac presenti carta nostra confirmasse, burgensibus burgi nostri de Edenburgh, predictum burgum nostrum de Edenburgh una cum portu de Leith, molendinis et ceteris pertinentiis suis, Tenendum et habendum eisdem burgensibus et eorum successoribus de nobis et heredibus nostris libere, quiete, plenarie, et honorifice per omnes rectas metas et divisas suas, cum omnibus commoditatibus, libertatibus, et aisiamentis quæ ad dictum burgum juste spectare solebant tempore bone memorie Regis Alexandri predecessoris nostri ultimo defuncti: Reddendo inde nobis et heredibus nostris annuatim dicti burgenses et eorum successores quinquaginta duas marcas sterlingorum, ad terminos Pentecostes et Sancti Martini in hyeme pro equali portione. In cuius rei testimonium presenti carte nostre sigillum nostrum precepimus apponi. Testibus Waltero de Twynham Cancellario nostro, Thoma Ranulphi Comite Moravie Domino Vallis Anandie et Mannie, nepote nostro, Jacobo Domino de Douglas, Gilberto de Haia Constabulario nostro, Roberto de Keth Mariscallo nostro Scotie, et Adam More, militibus. Apud Cardros, vicesimo octavo die Maii anno regni nostri vicesimo quarto."

Under this and similar charters, granted at various periods to most of the burghs of Scotland, was created that anomalous combination of feudal tenures in burgage and in feu-farm, by which, while the private property of each individual burgess continued, as at first, to be holden of the Crown in free burgage, the original Crown rents arising from those private properties, as well as those minor classes of revenue arising from judicial proceedings in the courts of the burgh, and from petty tolls and customs, were granted to the burgesses, as a community, in feu-farm. It is under this charter of Robert Bruce that the city of Edinburgh continues to account annually in Exchequer for a quit-rent of 52 merks sterling, or £34 13s. 4*d.*, under various allowances anciently granted by the Crown, or more recently by the Barons of Exchequer, which reduce the balance now actually paid to a very trifling sum.

At a very early period Edinburgh was one of those burghs royal whose magistrates constituted the court of four burghs; and it may be regarded as a proof of the pre-eminence to which it had arrived in the fifteenth century, that King James II., by a charter dated in the year 1452, conferred on it the privilege of being exclusively the seat of that court; "erga annuam de cetero tentionem, infra predictum nostrum burgum parliamenti curie quatuor burgorum principalium, viz. Edinburgh, Striveling, Linlithgow, et Lanerk."

In the following reign, by a charter of King James III., dated in 1482, the magistrates and community obtained the still more valuable right of sheriffship within the bounds of the burgh; a jurisdiction afterwards repeatedly confirmed by subsequent monarchs, and more particularly by James VI. and Charles I.

Prior to the end of the 15th century, the territorial property of the burgh, constituting the most valuable and productive part of the *common good*, appears to have been occupied by tenants on leases of very short duration. But about the beginning of the 16th century it began to be esteemed a point of sound policy, in the administration of such property, to convert those leases into perpetual heritable grants in feu-farm; and as all such alienations were legally invalid, being in violation of the original intendment of the grants to burghs royal, as well as of the just rights of the community, the practice of *feuing* seems to have been at first adopted with hesitation and timidity, until the burgal rulers of the day obtained from the Crown an express licence and authority for making such alienations, and a full security against the hazard of a feudal forfeiture of the rights and privileges of the burgh, to which such alienations legally exposed the community. This charter was granted to the burgh by King James IV., in the year 1508, avowedly "pro communi bono et proficuo ejusdem," and conferred on the magistrates, council, and community, "nostras consensum, specialem licenciam, liberam facultatem, et plenariam potestatem, nunc et in omni tempore affuturo, ad assedandum communes terras suas communis more de Edinburgh vocate *lie Burrowmure*, et communis maresii ejusdem vocati *le commoun myre*, cum pertinentiis in toto vel in parte in feodifirma, et per cartas et

sasinas hereditarie cuicunque persone vel quibuscunque personis prout eis magis videbitur expediens, pro feodifirma dicto burgo nostro in augmentationem communis redditus ejusdem annuatim inde reddenda: Tenend. de nobis et successoribus nostris in feodo et hereditate ac libero burgagio imperpetuum." It is by this charter specially provided, that the feuers and inhabitants of the common lands shall be subject to the jurisdiction of the burgh, and to all burgal regulations, in the same way as proper burgesses: and, that the rights of the burgh might be secured against all challenge on the part of the Crown, it is declared, "Quod assedationes que per dictos prepositum, ballivos, et consules dicti nostri burgi presentes et futuros, de communibus terris suis antedictis in toto vel in parte de nostro consensu, quem eis impertimur, in feodifirma facte fuerint ut premittitur, pro edificiis et polecia desuper conficiendis, nulla erunt causa recognitionis seu forisfacture earundem, nec dampnum aliquod seu prejudicium dicto nostro burgo nec burgensibus ipsius, penes libertatem suam et communes terras suas quoquomodo in futurum," &c.

At various periods the community acquired very considerable additions to their original property, partly by royal grants, and partly by transactions and purchases. Of the former kind were numerous small endowments for religious purposes, which had fallen to the Crown at the period of the Reformation, and were transferred to the burgh avowedly for pious uses. Of the latter sort, the most considerable were those connected with the town of Leith, of which the various and complicated details belong to another place; and, in further tracing the history of the chartered rights of Edinburgh, it is here unnecessary to take notice of any other than the general Charters of Confirmation and Novo damus, granted by James VI. and Charles I.; the former in the year 1603, the latter in 1636.

The charter of King James VI., commonly called the Golden Charter, contains a most ample confirmation of numerous royal and other grants to the burgh, and of various decrees of Parliament, or of courts of law, in favour of the rights and privileges of the citizens: and by a clause of "*de novo damus*," it gives to the provost, bailies, council, burgesses, and community of the Burgh of Edinburgh, and their successors, for ever, "Totum et integrum antedictum Burgum de Edinburgh, Cum meniis, &c.—in unum liberum burgum regale creantes, erigentes, et constituentes, cum omnibus et singulis libertatibus, privilegiis, immunitatibus et jurisdictionibus, que per leges et consuetudinem nostri regni ad unum liberum burgum regale pertinuerunt, pertinent seu juste spectare poterint, infra citraque dictum nostrum burgum, ac in et per omnes bondas in quantum vicecomitatus principalis de Edinburgh extenditur, seu in latitudine et longitudine tam regalitate quam regale extendi poterit; ac specialiter a ripa vulgo nuncupata *Edge Buklingbray* ex orientali, ad aquam nuncupatam *Almound Watter* ex occidentali; et in quantum antedictus vicecomitatus extenditur versus austrum; ac ad medium aque vulgo *to the myd watter of Forth* ad boream; Et cum speciali potestate et libertate dictis preposito, ballivis, consiliariis, burgensibus et communitati dicti nostri burgi, eorumque successoribus, pro perpetuo habendi, frequentandi, utendi, et exercendi, vulgo the *tred and trafficque of merchandrice*, Ac emendi et vendendi, vulgo *lie block, by, top, and sell*, omnis generis mercimonia, tam hujus nostri regni quam extranee nationis bona, non solum infra predictum nostrum burgum, terras, territoria, jurisdictiones et privilegia ejusdem, Verum etiam infra omnes bondas et terras infra predictum nostrum vicecomitatum situatas, tam regalitatem quam regale, latitudinem et longitudinem ejusdem: Et infra predictum burgum, et bondas ejusdem, pro perpetuo habendi, gaudendi, et possidendi, unam mercatoriam gildriam vulgo *ane merchand gildrie*, cum curiis gilde, consilariis, membris, et jurisdictione ad eandem pertinentibus, libertatibus, et privilegiis ejusdem, simili modo et adeo libere in omnibus et per omnia, sicuti per nos nostrosve predecessores predicto burgo, seu cuicunque alio libero burgo regali, infra nostrum regnum conceditur," &c. The charter proceeds to give a minute detail of the various rights of property in Edinburgh, Leith, Newhaven, and elsewhere, belonging to the burgh, and of the markets, tolls, and customs, constituting a part of the *common good*, for the protection of all of which a large jurisdiction is conferred; declaring the provost and bailies to be "Judices competentes omnibus et quibuscunque personis cujuscunque status seu conditionis, que ullum punctum seu partem libertatum seu privilegiorum supra recitatorum contravenire seu violare contigerint infra predictas bondas, aut ipsos in pacifico usu, gavisione, et possessione eorundem molestare aut inquietare; Ac etiam judices competentes in et ad omnes questiones, contraversias, querelas et actiones, tam criminales quam civiles, que inter partes et partes oriri poterint," &c. "Nec non judices competentes in et ad omnia crimina et transgressiones criminales et civiles que infra predictas terras, portus, aquas, et passagia, committi et fieri contigerint," &c. These declarations of civil and criminal authority and jurisdiction are followed by a confirmation and grant *de novo* of the hereditary offices of sheriff and coroner within the bounds of the burgh, and in Leith and Newhaven; declaring the provost to be sheriff and coroner principal, and the bailies to be conjunctly and severally sheriffs and coroners depute, "Cum speciali plena et libera potestate—curias, tam criminales quam civiles, infra predictum nostrum burgum,—tam super et adversum eorum proprios, proximos, et vicinos, et adversum burgenses et inhabitatores infra predictas bondas, quam super et adversum omnes alias personas que attachiari contigerint pro quacunque promissione, facto, debito, causa, crimine seu transgressione criminali seu civili, infra predictum burgum, seu infra predictas bondas aut aliquam earundem partem, facta seu contracta, toties quoties ipsis magis videbitur expediens, statuendi, inchoandi, affirmandi, affigendi, tenendi et continuandi; Et antedictum officium vicecomitis pro quibuscunque aliis causis, actionibus, offensionibus, crimine seu criminibus occurrere contigerit utendi et exercendi; Ac super et adversum omnes personas que infra predictum burgum molendina, terras, portus, passagia, et alia particulariter supra recitata cum pertinentiis, attachiari seu apprehendi contigerint, justiciam administrandi, sectas curiarum dicti vicecomitatus vocandi, et vocari faciendi, absentes amerchiandi, transgressores omnesque alios captivos et apprehensos accusandi, puniendi, et ad mortem justificandi, seu exilio aut aliquo alio puniendi genere, secundum qualitatem criminum et legum nostri regni,

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membra et ministros necessarios dictarum curiarum vicecomitis ex burgensibus dicti nostri burgi de Edinburgh solummodo constituendi, et nullos extra predictum nostrum burgum in eisdem eligendi seu imponendi," &c. The charter further proceeds to grant to the community the whole of the escheats, fines, &c., arising within the bounds of the burgal jurisdiction, to be disposed of and applied to the use of the burgh for ever: and all these grants of property, superiority, privilege, and jurisdiction, are declared to be permanently united into a royal free burgh, (in unum liberum burgum regale tenementum et tenandriam:) "Tenendum—prefatis preposito, ballivis, decano gilde, thesaurario, consulibus, burgensibus et communitati dicti nostri burgi de Edinburgh, eorumque successoribus, de nobis et successoribus nostris in feodo, hereditate et libero burgagio, ac liberis officiis vicecomitis, justiciarii et coronatoris infra predictas bondas pro nunc et in perpetuum: Reddendo annuatim—pro antedicto burgo—quinquaginta duas mercas sterlingorum—nomine feudifirme, nec non administrationem justicie in predictis officiis vicecomitis et coronatoris, ac aliarum jurisdictionum prescriptarum, atque servitium burgi usitatum et consuetum tantum, &c."

This charter is dated at Holyrood-house on the 15th of March 1603, only a few days before the accession of James to the Crown of England, and of his departure from his native kingdom. Under what influence of policy or caprice some parts of its contents had obtained the royal assent does not appear; but during the remainder of his reign these remained unchallenged. Early, however, in the reign of Charles I., the palpable excess of some parts of the grant, more especially in what related to the jurisdiction of the burgh in matters criminal and mercantile, appears to have occasioned dissatisfaction, as derogatory to the honour and dignity of the Crown; and, in the year 1630, the magistrates and council found it to be expedient voluntarily to renounce the benefit of any alleged excesses in the grant of King James, and to petition the Crown for a new and restricted charter.

Their petition bore, that "forsuameikle as his Majestie is informit that thair is conteynit in the said chairtors manye strainge clauss, quhilk ar not competent to ane subject, and manie landis annexed to the Croun conveyed thereby frome the Croun: the guid town, to approve their loyaltie to his Majestie, without prejudice alwayes of the auld richtis, chairtors, infeftments, decreittes, liberties and priviledges therein ratifiet, grantit to that guid town formerlie be his Majesties predecessors before the daitt of ye said chairtors, and als' without prejudice of the shirefship and coronarschip therein contenit within the bounds moir particularlie specefeit and designit in the offer maid be the guid toun to the noblemen and gentlemen of West Lowthean, and als' libertie of sole trade of merchandise appertening to ane frie royale burgh within the whole bounds of West Lowthean, as the samin is designit in the said chairtors, without prejudice also to his Majestie to erect burghis ather of regalitie or barronie in anye uther pairt of West Lowthean without the bounds of thair said shirefschip and crownerschip, townis and landis appertening to the guid toun in propertie or superioritie, and als' of the customes, pettie customes, schoir sylver, and uther dewtyes, liberties, and priviledges mentionat in the said chairtor, and upone the provisiounes underwritten, hes in all humilitie maid voluntar offer to his Majestie to renunce in favors of his Majestie all richt of regalitie disponit to them in the said chairtor, giff anye be therin contenit, and als' the richt that that guid toun hes therby to escheitts of criminal personnes convict before them to death, and als' of the escheitts of all thair inhabitants denuncit to the horne for civill causes; or any uther strainge libertie, if any be thairin contenit, quhilk is not competent to ane subject, nor is nott nor hes nott bein formerlie grauntit to shireff, crownar, or frie burgh, and als' to renunce all richt they have to the north or south castle bankis be vertew thairof, without prejudice alwayes of anye former lawfull richt quhilk the guid toun or anye of thair burgesses hes to the samin, and without innovatioun of the use of the south bank, conforme as hes bein accustomed in all preceiding tymes past memorie of man, with provisioun alwayes, and with humble and tender sute to his Majestie, that, since that guid toun is the cheiff and heid burgh of that kingdome, and that the same was erected, beautified, and adorned with sundrie liberties, priviledges, and immunities be his Majesties most noble progenitors from tyme to tyme, and in speciall be his Majesties father of most happie memorie: and that it hes pleased his royall Majestie, out of his gratious favour, to assure that guid toun that he wald protect theme in thair liberties and priviledges, and wald not be wanting to theme in expressing all testimonies of his royall favour, as occasioun sould offer, as the suord sent be his Majestie to theme to be usit be theme for his Majestie and in defence of thair liberties does sufficientlie witnes: and that the guid toun hes, evir since his Majesties entrie to the Croun, approvin theme selffes to be his Majesties trew and loyall subjectes; consideratioun also being had of the taxt payed be theme, being neir the third part of the taxt payed be the whole borrowis; of the burdenis they undergoe in all publick services quhilk tend ather to the honor of his Majestie's croun or that his ancient kingdome: and that ye same is doone be the frie contributioun of thair loving citizens, thair commoun guid being so meane as it is not abill to support thair ordinar chairge, it micht pleis his Majestie to ratifie the said chairtour in the remanent heids, articles and clausses thairof, and in speciall thair haill auld infeftments thairin contenit, the frie libertie of sole trade within the bounds of West Lowthean appertening to onie frie burgh royall, the schirrefschip and crownarschip within the bounds designit, as is above mentioned, customes, pettie customes, and uther deutyes thairin exprest, quhairof the guid toun is in possessioun, and of the remanent liberties, priviledges, and uthers thairin contenit, conforme to the tennor therof in all pointes."

Accordingly, in 1636, another charter passed the Great Seal in favour of the city. Its clauses of confirmation and *de novo damus* do not differ in substance from those of "the Golden Charter," excepting in the particulars referred to in the Act of Renunciation by the corporation, and it may be sufficient merely to quote the concluding proviso of the instrument, in which those excepted points are enumerated:—"Proviso omnimodo, sicuti tenore presentis carte nostre, expresse providetur et declaratur, quod universe reservationes et exceptiones fact:

a ratificatione predict: in hac presenti carta nostra content: *proprietatis* habebuntur tam reservat: exceptis etiam de nova donatione et infeofamentis immediate prescript: quemadmodum declaratur, quod presens nostra nova donatio et infeofamentum inde sequen:; nec ulla capita nec articuli in hac presenti carta nostra content: nullatenus comprehendent neque extendentur ad quodvis jus regalitatis, nec ultra extendetur penes hereditaria officia vicecomitis et coronatoris, et interdictionem hujusmodi, et tentionem gilde curiarum, sed solummodo intra bondas dict: nostre civitatis de Edinburgh, &c.,—et intra villas de Leith et Newhevin, &c.— Et quod presens hec nostra carta nullatenus inferret prejudicium et impedimentum nobis nostrisque successoribus in nostro jure et prerogativo regali, ad erigend: burgos regalitatis, burgos baronie in aliqua alia parte Lothiane occidentalis, extra bondas dicti vicecomitatus et coronatoriatus, ad quas iidem restringuntur, more predicto; cum hac declaratione omnimodo quod restrictio dict: officiorum vicecomitatus et coronatoris aliorumque predict: ad bondas supra specificat: nullum inferret prejudicium dict: civitati nostre de Edinburgh, et incolis ejusdem, penes privilegium et libertatem solius negotiationis mercature *lie sole tread of merchandice* intra integras bondas Lothiane occidentalis, ad ipsos tanquam liberam civitatem regalem pertinen. Et similiter per presentis carte nostre tenorem declaratur, quod virtute ejusdem nostre carte, dict: urbs et civitas nostra, eorumque successores, nullatenus habebunt, nec pretendent jus ad eschaetas criminalium personarum coram ipsis morti convictarum, neque ad eschaetas quorumcunque incolarum, intra bondas dict: ipsorum vicecomitatus et coronatoriatus, ut dictum est restrict: hactenus denunciatarum, aut quas in posterum denunciari continget ad cornu, vel ob criminales vel civiles causas, que in favorem nostrum, ut dictum est, renunciantur, et quas nos reservavimus nobis et successoribus nostris, pro perpetuo, non obstan: hac presenti carta nostra vel aliis prioribus juribus seu infeofamentis dicto burgo nostro de Edinburgh, eorumque predecessoribus perprius concess:".

With this modified and restricted renewal of its former rights and privileges the chartered history of Edinburgh may be held to close. Several other grants and charters, flowing from the bounty of the Crown, were afterwards obtained, at different times, prior to the union of the kingdoms in 1707; but though by these the financial resources of the burgh were modified or improved, they created no substantial change on its political or municipal constitution.

By these, and, in particular, by a charter of Charles II., dated in the year 1671, and ratified in Parliament in the following year, it was intended to relieve the city in some degree from the pressure of pecuniary obligations, occasioned, as it was at least alleged, by previous sacrifices in the service of the state.

Since the period of the Union, and more particularly within the last fifty years, various Acts of Parliament have been passed for the extension of the bounds of the royalty, and for purposes of revenue and police.

The royalty of the city was first extended, by an Act passed in 1767 (7 Geo. III. c. 27), over a part of the Barony of Broughton, Barefoot Parks, and other lands the property of the corporation, certain lands granted to the town in feu by the governors of Heriot's Hospital, and a part of Broughton Parks belonging to Watson's Hospital.

By another Act, passed in 1785, (25 Geo. III. c. 28,) it was further extended over an additional part of the lands of Broughton, and provision was made for its extension over other lands which that Act authorized the corporation to purchase.

Finally, in 1809, an Act was passed, (49 Geo. III. c. 21,) by which the royalty was still further extended over various lands belonging to the community of the city, the governors of Heriot's Hospital, and their feuers.

The other Acts of Parliament which have passed from time to time in favour of the city, or for the regulation of its affairs in different departments, will, as far as they are still in force, be detailed under subsequent heads of this Report.

By a charter of George III. (25th August 1794,) the provost, who was by previous charters sheriff and coroner, was constituted lord lieutenant of the county of the city.

CONSTITUTION.

Previously to the late Scotch Burgh Reform Act, the corporation of Edinburgh was of a close character, though not altogether without an admixture of popular representation. The return made to the House of Commons in 1793, describing the constitution as settled by the authority of a decreet arbitral of King James VI., 1583; a decreet arbitral of Lord Islay, 1729—30; and two acts of council, 1658 and 1673, was as follows:—"Council consists of 17 merchants, 6 deacons, and 2 trades' councillors, in all 25. These shorten the leets for 14 deacons, and elect six of them council deacons; they may continue two years. The 14 deacons are elected as follows:—Each corporation or trade vote a list, or leet of six, which they give into the council, who return three of the six for the election of a deacon, who is chosen by a majority of the votes of the members of the respective corporations. The 25 members of council elect three merchants' and two trades' councillors. The old and new council, consisting of 30, leet for the office-bearers, who are elected by them and the eight deacons not of the council, making in all 38. Thereafter the council consists, as formerly, of 25; but the eight extra deacons have a vote in every case exceeding the value of £1 13*s.* 4*d.* The magistrates consist of a lord provost, dean of guild, and treasurer, each of whom may be re-elected for one year more, and four bailies, who cannot be re-elected into the same office the succeeding year; and they must be out of council one year before they can be put in the leet for bailies; each of these office-bearers remains in council one year, *ex officio*, as councillors. A bailie, though he cannot be re-elected until he be out of council at least for one year, yet the sett does not prevent his being kept in council a considerable time, by being elected into other offices, such as treasurer, dean of guild, and provost, one after the other."

POPULATION.

The Population of Edinburgh, by the last census, amounted to 136,294.

The number on the register of voters for Members of Parliament for the city is 7,863, but

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from this number may be deducted about 2,000 on account of double entries, deaths, and disqualification by various causes.

SECTION II.

Property, Revenue, Debts, and Administration.

By the improvident exercise of the powers conferred on the corporation by the charter of King James IV., avowedly for the purpose of improving the condition of the burgh, and increasing its immediate revenues, the far greater part of the territorial property or common lands was speedily alienated, in return for annual payments in the current money of the kingdom, which have gradually dwindled down into what is now little more than a nominal and illusory quit-rent. The progress of these proceedings, and their operation in the impoverishment of the community, might be traced in the records of the council; but the result of the whole is so notorious and unquestionable, as to render any such deduction unnecessary. It is remarked by Maitland, the historian of Edinburgh, that fortunately for the revenues of the town, the extreme sterility of that part of their property, called the burgh loch and marsh, was such as to have saved it from the operation of feuing, until, at a later period, it had at a trifling expense been drained and converted into productive soil; after which a rent was obtained of far greater amount than the total feu duties reserved to the community over the more extensive and valuable portions of their ancient property.

The insufficiency of their remaining common property to meet the municipal expenses of the city was the frequent source of complaint with successive magistracies, and formed a cause or a pretext for obtaining grants or renewals of various impositions on the trade or rental of the inhabitants.

On one of these occasions, in the year 1658, the debt of the city was stated to amount to £54,761 sterling. Before the end of that century the city embarrassments had considerably increased; for, from the Report made by the magistrates to the committee of visitors appointed by the general convention of royal burghs in 1692, it appears, "that the common good of the said burgh extended *communibus annis* to the sum of £85,464 11*s.* 9*d.* Scots, and that their debts amounted to £771,000 Scots of principal sum."

The general prosperity of the country, which may be dated from the middle of the succeeding century, had the most beneficial effects upon the affairs of Edinburgh; its revenue derived from dues and customs rapidly increased. What remained of the ancient city property, in land, with considerable acquisitions made by purchase or feu, rose greatly in value, and a great part has latterly been occupied by buildings affording the highest and best-secured rental of which the land is capable.

This unexpected improvement in the resources of the city has, unfortunately, not been taken advantage of by the corporation with the prudence and economy which would have relieved it from the pressure of its difficulties.

Valuation in 1819.

The affairs of Edinburgh were the subject of examination in a Committee of the House of Commons in the year 1819. From the returns and statements then made by the city accountant and chamberlain, the Committee reported the total value of the

	£	*s.*	*d.*
1. City property then available to amount to - - - -	158,765	0	0
2. Property that may hereafter become available, but very uncertain, both in its value, and as to the time when it can be converted into money - - - - - - - -	181,772	0	0
3. The valuation put upon the meadows and links, being the public walks of the city, by the then provost, was - -	40,000	0	0
	£380,537	0	0

It was stated by the Committee that only the first division of this valuation, together with £30,000 included in the second, produced at that time any revenue.

Valuation in 1833.

The property of the city was again valued in 1833, by the city's superintendent of works; according to that valuation the property feued or let for rent, or otherwise productive, amounted

to - - - - - - - - - - - - - -	£314,333	9	8
The property not producing any annual return was valued at -	97,042	4	1
	£411,375	13	9

In addition to the general fallacy attending all such valuations, especially when a part of the property cannot be made the subject of sale, it is not improbable that peculiar motives influenced the city magistrates and their official valuators to put an undue value upon its property. It is unnecessary to examine minutely the causes of this over-statement, or the mistaken views which might satisfy the valuators, in a matter that could not be brought to the test of actual experiment, that it was expedient to give an exaggerated or imaginary estimate of the city wealth, and to present the appearance of an increase of property to meet an actual increase of debt.

Valuation by present City Accountant.

A Report has been recently prepared by the present City Accountant, which seems to approach nearer to a fair view of the town property; that gentleman states the

	£	*s.*	*d.*
Heritable property yielding rent to be worth - - -	158,312	16	$3\frac{8}{13}$
Heritable property yielding no rent - - - - -	23,065	0	0
Sum of heritable property - - - - -	£181,377	16	$3\frac{8}{13}$ -

	£	s.	d.	£	s.	d.
Brought forward				£181,377	16	$3\frac{6}{12}$
Moveable property to a certain extent productive	42,887	13	$3\frac{6}{12}$			
Ditto presently unproductive	47,392	9	9			
				90,280	3	$0\frac{6}{12}$
				£271,657	19	$4\frac{5}{12}$

The diminution which appears in this, as compared with previous valuations, does not arise from any considerable alienation of property, or change in its value. In this statement, the value of the high school, city chambers, and other public buildings, which formed a part of the previous valuations, has been withdrawn, as being neither productive of revenue, nor in any way available to increase the funds of the city. The meadows and links are estimated, by the revenue they produce, at £11,300, instead of £40,000, the former valuation, on the principle that the established privilege of the inhabitants of using these as public walks and places of recreation must prevent the great increase of their value which would arise from their being feued for building. The feu duties payable to the corporation have, in like manner, been stated at their real market value of twenty-three years' purchase, whereas they were formerly valued at twenty-five years' purchase. The accountant states, however, that on several grounds a considerable abatement must be made from the above amount, in valuing the property of the city for any practical object.

The city churches, the council chambers, city offices, the royal exchange, and various other public buildings in Edinburgh, the court-room and gaol of Leith, together with the patronage of the city churches, and of other churches belonging to the city, although most important parts of the property of the burgh, have not been included in this statement, as in fact they afford no fund that can be made available or taken into account in any statement of the financial concerns of Edinburgh.

ALIENATIONS. From the Report of the Committee of the House of Commons, (1819,) it appears that lands, superiorities, and feu-duties were alienated by the corporation, between Martinmas 1807 and Martinmas 1818, amounting to about £28,000 in value. The Committee stated that it appeared from the evidence that large portions of these properties were sold in a private manner, and at a smaller price than might have been obtained for them at the time, or than their (then) present value, and that they were disposed of with a view to strengthen the interest of one of the candidates in a contested election for the county. Since that period, besides other property, the buildings of the old high school have been sold for £7609 7*s.* 6*d.*

REVENUE. The Commons' Committee of 1819 stated, that they had met with difficulty in obtaining the materials for framing their Report upon the financial affairs of Edinburgh. That difficulty has not been less felt by us; the intricate and perplexed manner in which the city accounts have long been kept, added to the confusion arising from the recent embarrassment and insolvency of the city, have rendered it impossible for us to make any definite and accurate statement as the result of our own examination or knowledge. To supply as far as possible the want of a clear and unobjectionable statement for which we could ourselves be responsible, and to render intelligible a vast mass of accounts and other documents laid before us, we have taken advantage chiefly of two Reports, the first prepared by the accountant for the magistrates, the other by the accountant of the parliamentary trustees for the city creditors.

Report of the Accountant for Trustees of Creditors. The latter of these Reports furnished us with a view of the permanent revenue of the city for six years, from Martinmas 1827 to Martinmas 1833, from which it appeared to the reporter that, "exclusive of the ale and beer duty revenue, which is overburdened with debt, and exclusive of Leith docks and harbour dues, which are conveyed to Government in security of the docks' debt, amounting to upwards of £240,000, the gross annual ordinary revenue of the city, including church-seat rents, had amounted, on an average of the foresaid six years," to £25,632 11*s.* 5*d.* yearly; to which the accountant suggests an addition of £480 per annum, payable to the city out of the tax of merk per ton, the property of the ministers, in respect of advances made for the ministers;—together £26,112 11*s.* 5*d.*

Average Income.

Actual Income of Year 1834. The same accountant gives the following abstract of the actual Income of the year ending Martinmas 1834:

	£.	s.	d.
1. Church-seat rents	7,174	2	9
2. Assessment in lieu of impost on wine	1,152	0	0
3. Astricted multures payable by brewers	345	14	$5\frac{3}{12}$
4. Dues on goods sent by the Union Canal	389	4	6
5. Market dues and petty customs	5,422	4	4
6. Compositions from vassals in non-entry	720	3	$8\frac{6}{12}$
7. Feu duties	6,654	4	$0\frac{8}{12}$
8. Tack duties	1,529	10	2
9. Dividends on stock in public companies	265	6	8
10. Annual allowance from Gas Company for superintending pipes	10	0	0
11. Interest on debt due by charity workhouse	175	9	11
12. Dues of entry of burgesses and guild brethren	366	14	8
13. Rents from property at wet docks	90	0	0
Sum of receipts for stated revenue	24,294	15	$2\frac{5}{12}$

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Brought forward - - -	£24,294	15	$2\frac{5}{12}$
Casual receipts, (amongst which are sums of £278 of advanced money repaid, £797 of drawbacks on timber and glass used in altering city churches, £950 of anticipated seat rents paid on 10th November 1834, for the year following,) - - - - - -	3,026	10	6
	£27,321	5	$8\frac{5}{12}$

City Accountant's Report.

The Report of the City Accountant does not go into the details of the revenue of preceding years, and it is not mentioned from what precise authority the general statements of the debts, properties, and revenues of the city are derived. The revenue for the year 1833-4 is stated under the following heads:

	£.	s.	d.
1. Church-seat rents - - - - - - - -	7,401	0	11
2. Assessment in lieu of impost on wine - - -	1,764	16	4
3. Astricted multures payable by brewers - - -	370	14	5
4. Dues on goods sent by the Union Canal - - -	389	4	6
5. Market dues and petty customs - - - -	5,489	16	0
6. Compositions from vassals in non-entry - - -	663	2	6
7. Feu duties - - - - - - - - - -	7,709	7	5
8. Tack duties, or rents of houses, grounds, &c. - -	1,647	2	11
9. Dividends on stock in public companies - - -	196	6	8
10. Annual allowance from Gas Companies for superintending pipes - - - - - - - -	20	0	0
11. Interest on debt due by the charity workhouse - -	175	9	11
12. Dues of entry of burgesses and guild brethren - -	366	14	8
13. Rents from property at wet docks acquired by the city, on account of arrears of feus, &c., due at 1826	90	0	0
Giving a revenue of a permanent nature of - (exclusive of Leith dues, which are not stated by the reporter as part of the city revenue; and exclusive of interest stated by him to be due on a bond for £7,304 8*s.* 11*d.* from the ale duty, but which clearly forms no addition to the revenue of the city.)	£26,283	16	3
Casual receipts (amongst which are found a sum of £172 as repayment of money advanced, the sum of £797 as drawbacks on timber and glass, but not the sum of £950 of anticipated seat rents,) - - - - -	1,240	10	6
	£27,524	6	9

The discrepancies appearing in many of the particular sums, and in the total results of these two Reports, are to be accounted for partly from the Report of the city accountant proposing under the head of permanent revenue to give a view of the revenue which ought to be received, whereas the accountant for the trustees of the creditors places under that head only the income actually received; and partly because, while the "casual receipts" in the Report of the accountant for the creditors extend over a whole year, the sum stated under that head by the city accountant includes those only for 10 months, the period to which his Report of actual intromissions is limited.

It will be observed that in both these accounts the income from Leith harbour and docks is omitted. The reason will be explained hereafter.

The ale and beer duty, which has been stated by the city accountant as an article of revenue, has been omitted in the preceding abstract, in accordance with the views of the accountant for the creditors, because it, like the preceding article of revenue, is more than counterbalanced by debts secured preferably over it. The Act, also, under which it is levied, directs the accounts of its produce and application to be kept separate from the general accounts of the common good of the city. It will be taken notice of in the third section of this Report.

Both accountants have with propriety omitted the income, arising from various sources, applicable to the support of the ministers of Edinburgh, of which the magistrates have for a long time been merely the administrators. This subject will also be treated of in the third section.

It is perhaps proper to remark that certain articles of income are stated in both accounts in such a manner as to have the appearance of swelling the annual revenue of the city, although they consist of the produce of property sold, of recovered arrears, of money drawn out of bank, of repayment of advances, and in one instance, as explained above, of an anticipation of the next year's revenue. On these grounds a deduction may perhaps be made from the city accountant's Report of about £1000, and from the Report of the accountant for the creditors, which includes, as has been mentioned, an additional period of time, a somewhat larger sum, in order to obtain fair statements of the annual income of the city, according to their respective views.

EXPENDITURE.

It is impossible, for reasons to be stated hereafter, to give a precise account of the present Expenditure of Edinburgh, and it would not lead to any useful result to detail the outgoings of former years. It is, perhaps, sufficient to present an abstract, consisting of an average of the

common expenditure of the city for the six years preceding Martinmas 1833, which is arranged in the annual accounts of the city under the following heads:

	£.	s.	d.	
1. Feu duties, land cess, Bishops' rents, and other annual burdens	2698	0	0	Annual Average.
2. Expenditure on causeways in ancient and extended royalty	1964	0	0	
3. Lord Provost's dues, council and clerks' fees, and town servants' salaries	6746	0	0	
4. Payments charged in the dean of guild accounts	1503	0	0	
5. Payments charged in the college accounts	1729	0	0	
6. Criminal department	896	0	0	
7. Allowance to the charity workhouse	200	0	0	
8. Property purchased	666	0	0	
9. New buildings and repairs	8163	0	0	
10. Conditional loan to unemployed workmen	83	0	0	
11. Business accounts, and law and parliamentary proceedings paid	2490	0	0	
12. Miscellaneous payments	3816	0	0	
13. Life-rent annuities and interest	1507	0	0	
14. Schoolmasters' and precentors' salaries	653	0	0	
Giving an average annual expenditure for these purposes, omitting fractions, of	£33,114	0	0	

In this statement, as in the preceding account of income, the payment of ministers' stipends, the payments connected with Leith docks and harbour, and with the debts preferably secured over the ale duty, are altogether omitted.

	£.	s.	d.	
1. The ordinary Debts and obligations of the city were stated by the city accountant, with the authority of the magistrates and council, to have amounted at September 1833 to	377,050	12	1	Debts.
2. Debts charged on ale duty, and the annual interest of which has hitherto been provided for out of it, and which, therefore, need not have been here stated but for the consideration that the Act authorizing that tax expires in 1837	65,605	11	0	
3. Additional claims lodged with the city trustees, exclusive of claims by the guildry, and improvement commissioners	22,138	11	0	
	£464,794	14	1	
Which, after deduction of certain shares in the Water Company, assigned to the Bank of Scotland in security of a debt, which are valued at	39,600	0	0	
Leaves a total sum of ordinary debt of	£425,194	14	1	

The city accountant classes under the general head of "cautionary obligations and other engagements,"

	£.	s.	d.
1. Guarantee on account of the Water Company to the proprietors of mills and lands on various streams and watercourses, to the extent of	50,000	0	0
2. Engagements on account of Leith docks	245,992	0	0
3. Agreement to erect two new churches in the old town			
4. Engagement to erect a new debtors' gaol	4,000	0	0
5. Bond and assignation, dated 1st August 1832, for cash credit to Edinburgh board of health, with Sir William Forbes and Company, on security of assessment, under Act 2 Will. IV., c. 27, for	4,500	0	0

The most important of these contingent claims, that connected with Leith docks and harbour, it was necessary to state here to complete the view of the heavy debts for which the city may eventually be held responsible.

That branch of the finance of Edinburgh connected with the harbour and docks of Leith cannot be made intelligible without a full narrative of Acts of Parliament, and the transactions that have arisen upon them. It may be sufficient for the present purpose to state, that a large revenue was formerly derived by Edinburgh from the harbour dues of Leith; that great debts have been incurred by the city (chiefly to Government) for constructing docks, &c., which debts are primarily secured over the docks and the harbour; that the deficiency of the dock produce, on an average, more than counterbalances the surplus on the harbour dues; and that, at least for the present, viewed in connexion with the preferable securities affecting them, these properties united cannot be said to be a source of income to the city. At the same time, while we consider the subject of the deepest importance to Edinburgh, yet as the long term which must run before the sinking fund can extinguish the debt—the fluctuation of trade at the port—the uncertain cost of the necessary repairs, in a subject exposed to great hazards—and the inability of the city to afford aid to this estate, in any emergency, out of its general revenue—all taken together, render its discussion rather a speculation upon probabilities than a financial calculation on which we could venture to give a decided opinion, or to recommend any legislative

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interference, we have abstained from entering into these details here. They will be found fully stated in a Report upon the docks and harbour of Leith, prepared by one of our number, which accompanies this Report.

The only other important sum in this branch, the guarantee for the Water Company, depends upon so improbable a contingency, that it is scarcely to be taken into account among the city engagements.

ADMINISTRATION.

The affairs of Edinburgh have, during the present century, been brought so frequently before the Legislature and the community, that it seems superfluous to repeat the details of a system of mismanagement which is terminated.

We have not found sufficient evidence to entitle us to report that the disastrous state of the city affairs has been caused by actual embezzlement or fraudulent malversation. Exaggerated expectations of the continued and indefinite increase of the city in prosperity and size may have led the managers of the corporation into an increase of expense far disproportioned to the really considerable growth of the revenue; offices were multiplied, and salaries raised; a spirit of litigation prevailed, great profusion took place in the expenses of civic parade and entertainments, and extravagant sums were expended on public buildings and other public works, as ill adapted in general to their object of embellishing the city as they invariably were disproportioned to its finances.

The expense of law proceedings for the city, for the period from 1819 to 1832 inclusive, was £24,162; and for the same period the expenses connected with passing local Acts of Parliamented amounted to £12,156.

For the year 1819 the cost of city entertainments was £782. In 1820, £1,066; and the election dinner of the magistrates that year cost £533. In 1821 the amount of this branch of expense was £755.

St. George's Church was built in 1814 on a plan estimated at £18,000, but it cost £38,000.

The new High School, concerning the utility of which there is a difference of opinion, was recently (in 1829) erected at an expense of £34,199, of which a part was raised by subscription, and a part by the sale of the old school-house, but the remainder, £22,973, was defrayed by the city. This expensive work was undertaken within a few years of the declaration of the insolvency of the city.

The Report of the House of Commons' Committee in 1819 upon the city of Edinburgh, after a full investigation, stated that, from 1807 to 1816 inclusive, the amount of the sums borrowed and raised by way of annuity and received for property sold had exceeded the amount of debts paid off, and of sums paid for property purchased, by £90,421; and that the excess of expenditure over income during the two following years amounted to £16,000 and £18,000.

The closeness and irresponsibility of the corporation could not alone account for the continuance of such a system; the studied concealment of the affairs of the community for a long period, and the partial and confused statement of them which was afterwards periodically made, probably kept the respectable members of the corporation in ignorance of their financial embarrassment; and it is that ignorance, and a reckless confidence in the future improvement of their finances, which can alone save the late city managers from the charge of fraud, both as regards the community and their creditors. No insufficiency of means, were such alleged, can furnish their defence, since a revenue, however limited, must be the rule of the expenditure.

The city having become insolvent, a statute was passed in August 1833, conveying its whole properties and revenues, so far as legally liable for its debts, and attachable by the diligence of its creditors, to trustees. This conveyance does not include the harbour of Leith. The terms of the Act, and, indeed, the nature of the obligations which are implied in the gift of common property to a burgh, have given rise to important and very difficult questions between the creditors and the magistrates, as to what part of the common good of the burgh is attachable for its debts. These disputes form the subject of various suits at law, now pending; and it is improper for us to express any opinion upon the result, and evidently impossible, without doing so, to state even a conjectural prospect of the probability of the payment of the city creditors, or the reversion of any fund for the common purposes of the city; in the mean time, property has been surrendered by the corporation to the trustees of the creditors, which is estimated to produce £3,500 per annum. Small sales have been made by the trustees, to the amount of £3,450; and stock of the Water Company has been disposed of, and the produce paid over to the Bank of Scotland, which held a preferable security over it. The only payment made by the trustees to the general creditors is a sum of £4,500, towards discharging unpaid interest and annuities up to the 25th November 1833, the date of the commencement of the trust. Considerable sums have been advanced, from time to time, to the magistrates, for the common municipal expenses, without any definite arrangement as to their future amount.

Endowments for Charity and Education.

The corporation of Edinburgh are the administrators of various funds destined to the purposes of Education or of Charity.

Trinity Hospital.

1. The most considerable of the charitable institutions administered by the magistrates is Trinity Hospital, which was an appendage of the Trinity College founded in 1462 by Mary of Gueldres, Queen of James II. of Scotland. At the Reformation, the Regent Murray obtained a gift of the Trinity College Kirk, and buildings connected therewith, which he made over to Sir Simon Preston, of Craigmiller, then provost of Edinburgh, who afterwards, in 1567, conveyed the same to the magistrates and council, for an hospital for the poor, which accordingly was speedily erected.

The magistrates and council of Edinburgh, with the deacons of crafts, ordinary and extraordinary, in council assembled, are the sole governors of the hospital.

Its property consists of three valuable farms in the neighbourhood of Edinburgh, of houses, feu duties, and £4,500, lent long ago to the city of Edinburgh, on the security of the ale duty.

The hospital owes no debt, except £4,000, which was not contracted for any purpose of the charity, but was laid upon the funds of the hospital by the local statute for building Waterloo Bridge, and making the road over the Calton Hill, to defray part of the expense of that undertaking. It is stated that this was a most unjust imposition upon the hospital funds, as no part of its property is benefited by the bridge or road.

The revenue of the hospital varies in amount, as its land rents are payable in grain, according to the fiar prices. It amounted last year to about £2,200. This income is expended in repairs and management of the property, and in the support of the establishment.

The house affords accommodation for 40 inmates, and there are about 100 out-pensioners, who receive £6 a-year each. The inmates of the hospital are well clothed, fed, and lodged, are furnished with beds and bed-clothes, and have a weekly allowance for petty incidents.

To entitle persons to admission upon the foundation, they must be either burgesses, wives of burgesses, or children of burgesses, not married, nor under the age of 50 years. When they are admitted to the hospital they assign to it all property which they may then possess, and come under an obligation, if they shall afterwards succeed to any property, to reimburse to the hospital the sums expended on their account.

The donor of £350 to the hospital, and his heirs, may present to it a person qualified as above; and the donor of £450, and his heirs, may present any person unmarried, and not under 50 years of age.

The affairs of this hospital are now exceedingly well managed; and, in particular, its expenditure is regulated as nearly as possible to meet its income.

Horn's Mortification.

2. The charity called Captain Horn's Mortification consists of £3,500 South Sea Annuities, left in trust to the magistrates of Edinburgh; the interest of £1,500 of the same to be paid to poor labourers of the city. The annual interest of £1,000 to be paid to poor labourers of the parish of Nether Libberton. The annual interest of £1,000, being the residue of the £3,500, to poor labourers belonging to the West Port, Bristo, and Potterrow.

In 1753 the management of this fund opened to the magistrates, upon the death of Captain Horn's widow, who had life-rented it; and in 1755 the produce, amounting to £3,794 9*s.* 8*d.*, was applied to the use of the city of Edinburgh, and charged upon the ale and beer duty.

The free produce of this fund annually, while the corporation was solvent, was £185, distributed amongst 32 labourers within the city of Edinburgh, 22 labourers within the parish of Libberton, and 22 belonging to Portsburgh, Potterrow, and Bristo.

These are the charitable foundations of which the magistrates are the sole managers. In the munificent establishment of Heriot's Hospital, and various other hospitals, they are joint managers with the city clergy, or other trustees.

Bell's Legacy.

3. A considerable fund was bequeathed, for the purpose of education, by the late Dr. Bell, of Madras, and placed for that purpose in the hands of the magistrates and council.

In July 1831 Dr. Bell appointed his trustees to transfer one-twelfth part of £120,000 3 per cent. Bank Annuities to the magistrates and town council of Edinburgh, for certain purposes, which are expressed in a deed of discharge, and declaration of trust, executed by the magistrates and council on 2nd November 1831. By this deed they bound themselves, and their successors in office, to apply the dividends and interest in the support of a school or schools, already founded or to be founded in Edinburgh, on the principles of the Madras system: "And further, we oblige ourselves, as lord provost, magistrates, and council aforesaid, and our successors in office, either to permit the aforesaid two sums of £4,895 16*s.* 8*d.*, *to remain in the funds aforesaid*, or to invest the proceeds thereof in some one of the *Government securities*, or upon *heritable or other sufficient securities*, as shall from time to time be thought fitting, the dividends, interests, or annual proceeds, to be applied as aforesaid."

Mr. Aytoun's Declaration, p. 1.

The money remained in the funds for a few months, when a creditor of the city, Mr. Adam White, whose debt was secured on the ale duty, required payment, "on the avowed ground of the insufficiency of the security of the ale duty, as well as that of the town."

Committee's Report, p. 7.

In consequence of that demand, the magistrates and council, in May 1832, resolved to take Dr. Bell's legacy out of the public funds, and lend a part of it on a transfer of Mr. White's bond. Accordingly a minute of council, dated 30th May 1832, bears, "that the chamberlain represented that the stock had been sold, and produced £8,261 14*s.* 2*d.*, of which £7,500 had been lent upon the ale duty, in name of the lord provost, magistrates, and council, as trustees of Dr. Bell; and the magistrates and council directed the balance to be applied on the same security, as soon as it could be obtained."

Mr. Aytoun's Declaration, p. 2.

It has been stated, "that the council was quite aware of the motive by which Mr. White was actuated, as well as of the state of the city's affairs, which were at that time fast approaching to bankruptcy;" and that the town council "resorted to this step as a temporary expedient to silence a clamorous creditor, to prevent a blow-up in the city's affairs, and to enable them to continue the existing system a little longer."

The administration of the funds of the institutions for education under the direction of the town council, in actual operation, will be treated more conveniently in connexion with the details regarding the general management of those institutions. (Section V.)

It appears, from the statements given above, that, in all the instances in which the magistrates had an undivided control in charitable foundations, they have misapplied the funds, and sacrificed the interests of the charities to the necessities or convenience of the corporation.

Vide sec. III.

The produce of the ale duty is burdened, by the Act imposing it, with payment of the interest

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of a large debt, various large annuities to professors and ministers, and an annual sum as a sinking fund for liquidation of the said debt. These were the preferable claims upon the fund, which has not, however, afforded more than £90 in all towards the formation of a sinking fund. The produce of the duty in 1832 was £2,543, and last year £2,910, while the annual payments which were declared by statute preferable amount to £2,664. An arrear has arisen upon the statutory burdens, and other large sums have been, from time to time, borrowed by the town upon what is called the security of the ale and beer duty. It was well known also that the statute under which it is collected expires in 1837; and it can hardly be imagined that the town council were ignorant that its renewal will be strenuously opposed. Yet it was upon this security that a large sum of the Trinity Hospital funds, and the whole of the fund of Horn's mortification, have been lent to the corporation.

The last transaction of this nature is even of a worse character. When the town council, in 1832, sold Dr. Bell's legacy out of the funds to invest it on the ale duty, they deliberately betrayed the trust reposed in them by the testator.

SECTION III.

Local Taxes.

The Local Taxes affecting the city of Edinburgh are (I.) either levied by direct assessment on the house-rents of the inhabitants, or (II.) indirectly on commodities used by them.

The direct taxes are,

1. Cess.
2. Road money.
3. Police assessment.
4. Improvement assessment.
5. Bridewell assessment.
6. Poor's rates.
7. Annuity.
8. Commuted impost.

The indirect taxes are,

1. Ale and beer duty.
2. Converted multures.
3. Merk per ton and pack.
4. Impost uncommuted.
5. Petty customs.
6. Leith harbour dues.

I. Direct Taxes. Cess.

1. Cess, or Land Tax.—The proportion to be borne by Edinburgh of the whole of this tax payable by the burghs of Scotland was last settled by the Convention of Burghs in 1805 at £2,600.

Before the Act 25 Geo. III. cap. 28 (the South Bridge Act, 1785) was passed, this tax was assessed upon the old and extended royalty, the liberties of Canongate, North and South Leith, Coalhill, and Citadel. By that Act, the eight southern districts of the city were made jointly liable for the land tax. The rule by which it was levied, till 1831, was, that property in the occupation of the proprietor should be valued at 6 per cent. of the purchase money (whether old or recent), and when in the occupation of a tenant at four-fifths of the real rent. The unfairness of such a valuation led to its being challenged and resisted in 1810; and on that occasion, the town council refusing all redress, the Court of Session held that the rule adopted was, "upon the whole, as equal and proper as any that can be suggested."*

Twenty years afterwards, in consequence of the remonstrances of a public meeting of the inhabitants, the town council declared itself satisfied of the injustice of this mode of levying the tax, and directed "the properties in the occupation of proprietors to be valued according to their present actual value, without reference to their original cost." That principle is now the rule of valuation; but instances still occur of glaring inequalities in the assessment of houses of the same value in the same vicinity.

Formerly (before 1825) an additional rate was assessed under the pretence of providing for desperate arrears, and the expense of collection. This rate appears to have been regulated at the mere pleasure of the collector, who thus far levied the tax without any warrant whatever. When an inquiry took place regarding this assessment in 1825, it appeared that between the years 1788 and 1824 a sum of £8,581 had thus been unwarrantably assessed. When the magistrates were called upon to account for that sum, they admitted the gross irregularity of the practice, but stated, and with truth, that no part of the sum had gone into their treasury, and endeavoured to show that, although assessed, all the money had not in fact been levied, inasmuch as a considerable sum of arrears, probably irrecoverable, was to be set off against it.

Road Money.

2. The tax collected under the name of the Road Money is paid by the inhabitants in lieu of statute labour upon the roads. An Act of Parliament, in 1764, declared that the composition money exigible from each householder within the city of Edinburgh, Canongate, Leith, and suburbs of the said city, should be applied towards maintaining the great and cross roads leading to and round the city, within the (then) present toll-bars next adjacent thereto. The trustees for levying and applying the tax are, the conveners of the eight county districts of roads, the members of parliament for the city and county, the sheriff depute and substitute, the lord provost, four bailies, dean of guild, and convener of the trades. As the magistrates are neither ostensibly nor virtually the preponderating part of this board, the management of

* Gibson *v.* Magistrates of Edinburgh, 1810.

the tax may not seem to fall within the compass of the inquiry prescribed by the Commission. But it is important, as it may bear essentially upon other subjects of inquiry, to ascertain every local burden which affects the city and its inhabitants.

The assessment of the road money is not in exact proportion to the value of property. Houses rented at £2, and under £5, are rated at 2*s.* each; houses from £5 to £15 pay 4*s.*; from £15 to £20, 6*s.*; and so on, at a very arbitrary scale of increase, up to a rental of £160, which pays 42*s.* No corporate bodies or individuals are exempted from this tax. Its amount, for the years from 1830 to 1832, was, on an average, £4,493 yearly, which was more than £1,000 of decrease from the average of the three years previous.

3. The Police Tax, which is levied over the whole district within the parliamentary boundaries, excepting Morningside, Canaan, and some other small portions of the suburbs, is at present 6¼ per cent. upon a gross rental of £406,484. A full statement as to this establishment will be found in the fourth section of this Report. POLICE.

4. The tax leviable under an Act for Improving the City of Edinburgh is 1 per cent. on rent from the tenant, and 2 or 3½ per cent. from the landlord, according as the property lies without or within the improved districts. The improved districts are also liable to a tax of 10 per cent. on feu duties. IMPROVEMENTS.

5. The tax for Bridewell, which is under the administration of the county, is 1*s.* 2*d.*, levied indiscriminately upon every house, of whatever value. BRIDEWELL.

None of the three taxes last mentioned, nor the management of the funds raised under them, are under the control or influence of the town council.

6. Before 1740 the Poor's Funds of Edinburgh were managed by the kirk session of each parish. In that year a contract took place between the magistrates and the kirk sessions for erecting and endowing a poor's house, under the management which, with some trifling variations, still continues. The managers now consist of one hundred persons, elected annually from among the magistrates, kirk sessions, and principal public bodies of the city. POOR'S RATES.

The revenues provided by the contract were the collections at the church doors, and at the episcopal meeting-houses, the fees of marriages not solemnized in church, one-third of the dues of the dead or passing bell, the fees of burial warrants, green turfs, poor's box at Greyfriars' gate, mortified money, mortified houses and shops, fornication fines, legacies, the sum of £200 annually to be paid out of the revenue of the city of Edinburgh, and a rate of two per cent. on all house-rents within the city.

In 1813 the magistrates, having taken the opinion of counsel with regard to their power, increased the rate to five per cent., giving up at the same time the annual general collection at church doors, which usually produced £800 a-year. Since that time the rate has varied according to the exigency of the poor, and the rise or fall of house-rents, going as low for four years (1823-26 inclusive) as 3½ per cent., and up to six per cent., as it is at present.

The treasurer of the poor's house makes up annually a prospective view of the rate necessary for the expenses of the year, which, when approved by a meeting of the managers, is transmitted to the magistrates, who approve of the estimate, and an extract of their deliverance thereon is the warrant to the collector. On one occasion the magistrates refused to allow a rate of eight per cent., though reported to be necessary, but recommended an application to the public, and especially to the privileged bodies, for a voluntary subscription in aid of the funds, which produced a sum of about £1,400.

The average income from collections at the 13 city churches is about £2,200 a-year. The sums handed over by the kirk sessions weekly, the weekly payments of the collector, and the sum due under the contract with the city, form the charge against the treasurer. His accounts are audited quarterly by a committee elected by the managers, and a quarterly abstract of his account is entered in a separate book, and examined and docqueted by the auditors.

The amount of debt at present standing against the managers of the poor's house is £23,067. This is stated to have arisen mainly from the managers counting upon the rate approved by the magistrates actually producing the sum which such a rate should produce on the known rental of the town; and as the allowance has always, of late years, been much below their real necessities, they have been, from time to time, induced to borrow money on the faith at first of the current year's assets, and afterwards of the arrears of former years, in addition to these.

Accounts have been produced to us, showing the deficiency of the sums levied in comparison with the amount assessed between the years 1826 and 1833, amounting to £15,049 15*s.* 6*d.* The managers complained that they had no control over the appointment or the actings of the collector; and that they were not considered entitled to inquire into the arrears which he struck off as irrecoverable. In some instances parties who had fallen into arrear for some years have stated that the arrears have never been required from them after the first demand. This year the magistrates have been permitted to appoint a collector of their own, who is to receive 3½ per cent. for collection, subject to deduction of £150 per annum for the late collector's life insurance. They pay also £87 per annum as their proportion of the salaries of stent-masters.

Another branch of their heavy debt is a sum of £4,387 8*s.* 8*d.*, due to the city of Edinburgh. This debt arose in the following manner:—By the Act of Parliament for extending the royalty £300 a-year was made payable by the city's poorhouse to the parish of St. Cuthbert. For a number of years that sum was paid by the town; and the town council, having lately discovered the mistake, has reclaimed the amount paid, with interest, from the managers of the poor's house. The managers state that they are now contracting their out-door expenditure; and they expect progressively to clear off the debts affecting the poor's house, without increasing the assessment on the inhabitants.

7. The taxes levied for the maintenance of the clergy of Edinburgh, though not imposed by the magistrates, nor applicable to municipal purposes, may not improperly be considered here, ANNUITY.

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both because they have always been under the administration of the town council, and because they have given rise to some of the most difficult questions connected with the municipal arrangements of the city.

The clergy of Edinburgh appear to have been supported from the time of the Reformation partly from the common funds of the city, aided by assessments and voluntary contributions, and partly from the rents of property, which, in Catholic times, had formed the endowment of altarages, chaplainries, and prebends in the city churches, and were granted to the community by Queen Mary and James VI., for the support of the ministers, and of the schools and hospitals within the city. The insufficiency and precarious nature of these supplies rendered various expedients necessary to make up for the deficiency of tithes in a district of which comparatively little remained for agricultural purposes.

13th March 1566. 14th April 1582. Ratified in Parliament, 1579, 1587, 1592, 1593, 1621.

At length, in 1625, the King, (Charles I.,) in a letter to the town council, suggested the levying of an equal tax upon the rents of houses and tenements within the city, as had already become the practice in London, and other great towns of England.

This suggestion did not take effect till 1633, when an Act of Parliament was passed for levying the sum of twelve thousand merks yearly from the whole inhabitants of Edinburgh, according to the proportion of their rents, the lords of council and session only excepted; the collectors to be appointed by the magistrates.

Previously to that period the number of the ministers had fluctuated, and scarcely an attempt had been made to fix a certain income for them. It was now settled that the four parishes into which the city was divided should each have two ministers. The salary of the first four was fixed at 2,000 merks each, and for the other four 1,300 merks each, with 200 merks each for house-rent.

In the year 1641 the city was divided into six parishes. In 1648 the six parochial sessions of Edinburgh represented to the General Assembly the necessity of increasing the number of ministers; and the town council, with a great number of the inhabitants, setting forth "how agreeable it is to conscience and reason that all those who possess dwelling-houses, and enjoy the benefits of God's ordinances, should contribute willingly to the entertainment of God's servants who dispense the same," resolved that there should be twelve ministers, the stipends of six of whom should be paid by the tenants of the whole burgh lands, and dwellings within the town. That resolution was ratified by the committee of estates of the same year, who enacted that the stipends of six of the twelve ministers of the city should be paid by a tax imposed on inhabitants and possessors of houses in the town, without exception or exemption. The whole sum to be raised was fixed at 19,000 merks, giving a stipend of 2,700 merks to each minister, with 400 merks for house-rent. The Act of the Committee of Estates was ratified by Parliament; and a survey having taken place in the mean time, the rate of impost was fixed at five *per cent.* on house-rents, which was raised in the same Parliament to six *per cent.*, on the petition of the council, in name of the whole inhabitants, stating the insufficiency of the former rate to make up the sum of 19,000 merks.

28th December 1648.

2d March 1649.

19th June 1649.

By all these enactments the tax for the support of the six clergymen was made leviable by the ecclesiastical officers, that it might not be mixed up with the revenue to be applied to the common municipal purposes; but this mode of collection appears not to have been effectual. A few years afterwards the parish sessions humbly desired the magistrates "that they would be pleased to give their concurrence, with the several deacons, for collecting and ingathering the annuity, which very many doth refuse to answer, except they be compelled by the authority of the magistrates." Heavy deficiencies had arisen, and abatements had been granted; and in the following year a temporary arrangement was entered into, by which the ministers assigned to the council of Edinburgh their right to uplift the annuity, and accepted of fixed stipends of 2,500 merks yearly, payable by the town council.

4th September 1654.

19th March 1655.

Upon this footing the provision for six of the clergy of Edinburgh appears to have remained until the Restoration, when the Act rescinding the legislative measures of the Commonwealth rendered it necessary again to apply to Parliament for authority to continue the assessment for the clergy.

Annuity Act, 1661.

Accordingly, in 1661, an Act of Parliament was passed "Anent the Annuitie to be uplifted within the Burgh of Edinburgh for Ministers' Stipends;" the terms of which are of importance, as it formed the warrant for the collection of this tax for more than a century. Its preamble bears, that "the teinds, rents, and others, belonging to the citie, for the use and maintenance of the ministers of the said citie, ar far short and not proportionable nor sufficient for such ane number of ministers as is necessar ther; and the said town having been at vast charges for building of churches and publick works upon that and other occasions, the common good and patrimonie thereof is exhausted and overburthened." And then setting forth that six of the ministers of the city had been in use to be paid by an imposition of six *per cent.* on the rents of houses, and that "there is not a more easie and effectuall way for provyding and paying the stipends of the said six ministers, than in maner and be the imposition foresaid," it is enacted, "that the yeerly stipends of six of the ministers of the said burgh shall be imposed upon and payed be the inhabitants, tennents, and occupyers of the severale duelling-houses, chambers, buiths, cellers, and alehouses, heigh and laigh, within the said town, without exemption or exception of any house, of whatsoever holding or nature the same be of, or of any persone or persones, of whatsomever degree or qualitie, or place, upon pretence of any priviledge or pretext whatsoever, and that the quota of the saide annuitie payable be the severale inhabitants of the saids houses shall be according and effeirand to the mailes of the houses occupyed and inhabited be them, at the proportion of sex merks for each hundred merks of maile."

Merk per Pack and Ton. 17th May, 1636.

The annuity tax, thus finally settled, was not the only expedient devised for supplying the deficiency of the usual sources of maintenance for the clergy. In 1636, the town council of

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Edinburgh had a grant from the Crown of a duty of a Merk on each Pack and Ton of goods imported from countries without the bounds of the kingdom of Scotland into the burgh of Edinburgh, the towns of Leith and Newhaven, or any part of the liberties of the same; and in 1661 that grant was ratified in Parliament, "to the effect the haill benefite of the said gift may be now applyed toward the maintenance of the ministers of Edinburgh." 1661, c. 121.

Seat Rents.

On 27th December 1639, the magistrates and council passed an Act, which, after narrating that the existing funds were insufficient for supporting the ministers, ordained, "for the better decencie of their churches, and for the relief of the foresaids burdens, that the whole churches of this burgh sall be filled with pews or desks, and that there be ane certain yeirlie deutie imposed upon ilk pew or saitt, to be uplifted of these to whom the same sall be allotted be the counsall, and that the same be ingathered be the elders and deacons of ilk church, each of them within their own quarter, together with the yeirlie annuitie appointed to be taken of the house maills, to be delivered to the thesaurer of the kirk rents, for payment of the ministers' stipends, and maintayning of the fabric of the churches."

By another Act, dated 28th November 1662, "the council taking to consideration the great necessitie lying upon them to provide for the maintenance of the ministers, in respect the bishoprick of Orkney and deanery of Edinburgh is taken from that use, doe thairfor ordane towards that use that the pryces of the seats of the several kirks be appropriated to that use."

In 1781, the town council resolved "that the whole amount of the seat rents of the said new church (St. Andrew's) should be equally divided among the 16 ministers of Edinburgh, in further augmentation of their stipends, and that, in order to augment the stipends to £160 each, £200 sterling should be raised by an additional rent to be imposed upon the seats of the churches of Edinburgh, the new church excepted."

Impost on Wine, 10th November 1641. Ratified in Parliament, 29th July 1644. 26th August 1662. 11th September 1672.

King Charles I., by a charter under the Great Seal, granted to the magistrates and community of the burgh of Edinburgh the rents, feu duties, customs, and teinds of the bishoprick of Orkney, and of the deanery of Edinburgh "pro usu, adjumento, et supplemento sustentationis ministrorum dicti burgi." The town afterwards surrendered to the Crown that bishoprick and deanery, and had in exchange a grant of an Impost on Wine and other liquors vended in Edinburgh, and the adjacent parishes, which, in the Parliamentary Ratification of a grant of the same kind to the city, was declared to be "in order to the payment of ane part of their ministers' stipends."

Lady Yester's Mortification.

In 1647, Lady Yester founded a church within the city, and mortified a sum of 4,000 merks in the hands of the magistrates, the interest to be applied towards the payment of the stipend of the minister of that church.

Ale Duty. 1716. 1693, c. 47. 38 Geo. III., c. 54.

By Act of Parliament, 3 Geo. I. c. 5, a Duty of two pennies on the pint of Ale and Beer brewed or vended within the liberties of Edinburgh, imposed by a Scotch statute, was continued, and destined, among other purposes, "for building two new churches and settling stipends for the ministers." That Act has been repeatedly renewed; and by its last renewal the duty is burdened with the payment of £137 17*s.* 8*d.* yearly to the minister of one of the churches of the city.

These various sources of revenue, destined for the maintenance of the ministers of Edinburgh, were all placed under the administration of the magistrates. It does not appear, however, for a very long period, that they were in the practice of accounting to the ministers for the amount received from each of these sources. The whole funds levied by the council, on account of the clergy, went into the common good of the city; and soon after the date of the last-mentioned Act concerning the annuity, upon some probably tacit understanding, it is ascertained that a fixed stipend was paid to each of the ministers of the different parishes of Edinburgh indiscriminately, not subject to the fluctuations of a variable tax, although liable to slight variations upon any increase of the number of the clergy of the city. 1661.

Exemption of College of Justice. 29th January 1788.

It is stated by Fountainhall, that the Exemption of the College of Justice had not been pleaded against the levying of the annuity tax till a short time before 1678.* In 1687, the Court of Session declared "the members of the College of Justice exempt from payment of the ministers' stipends, as also from watching, warding, and all impositions for the same;" and in 1788 the members of the College of Justice were found exempted from the payment of poor's money, and other taxations imposed by the magistrates.

In 1708 there were fifteen ministers upon the establishment of the city. In 1722 their number was raised to sixteen. From 1712 to 1781 the amount of stipend payable to each was 2,500 merks, or £138 8*s.* 10*d.*

Annuity extended with Royalty.

The first Extension of the Royalty of Edinburgh, in 1767, took in large portions of ground not built upon, some of them the property of the city, others feued from Heriot's Hospital, and some belonging to private individuals. The Act proceeds upon the principle, that "it is just and reasonable that the royalty of the city should be extended over these grounds, for the equal apportioning of public burdens and benefits;" and declares that the houses to be built upon the annexed grounds shall be subject to the same public burdens as the other houses of the city, and, in particular, an equal portion of the cess, annuity, poor's money, and watch money, payable by the city of Edinburgh. It provides that the patronage of such churches as shall be built and endowed by the community of the city of Edinburgh, on any of the said grounds annexed to the said royalty, shall belong to the said city of Edinburgh, in the same manner as the said city holds the patronage of the churches within the ancient royalty.

The same conditions were stipulated in the subsequent extension of the royalty, in 1785-6. In these cases the proprietors or feuers of the ground to be annexed had previously bound them-

* Fountainhall, November 20th, 1678; 23d February, 1687; Mor. 2402.

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selves to consent to bear the burdens of the other burgesses and inhabitants, in return for the benefits of being comprehended within the royalty.

Annuity applied to Stipends of all the City Ministers.

In 1809, when the town council had prepared a Bill to be brought into Parliament for further extending the royalty, the ministers intimated their resolution to oppose that clause of the Bill which provided for a corresponding extension of the Annuity, unless it should, at the same time, provide for the produce of the annuity being applicable to the Stipends of all the Ministers of Edinburgh, including those who were about to be established within the extended royalty. This condition was ultimately agreed to by the magistrates; and by that Act, for the first time, the annuity of six per cent. was declared by the legislature leviable for the stipends of all the ministers of Edinburgh.

The extended royalty now contains four churches and parishes.

1781—4.

The first church which was built there, St. Andrew's, was supplied with a minister by uncollegiating one of the old city churches, and the presbytery approved of that procedure. In 1800, St. Andrew's church was made a collegiate charge, which increased the number of ministers to 17. In 1825, an eighteenth minister was added, at the suggestion of the ministers of Edinburgh; and it may be observed that the measure so suggested by them deprived each of them of one-eighteenth part of his stipend.

Number of Ministers.

There are also two ministers of chapels of ease within the ancient royalty, making the whole Number of Ministers in the royalty, old and extended, 20.

Declarator Ministers *v.* Magistrates. 11th June and 7th July 1813. 16th February and 8th June 1815.

In 1810, the Ministers of Edinburgh raised an action against the Magistrates to have their absolute right to the several funds claimed by them declared, and to oblige the magistrates to account for their administration of them. After several interlocutory judgments * of the Court of Session, which the parties held to fix sufficiently the principles to be observed, the cause was taken out of court by a compromise, which was afterwards extended in the shape of a formal contract. By that contract the magistrates became bound to pay, for the years from 1814 to 1820, an annual stipend of £520 to each of the 17 ministers, then forming the establishment of the city, and to provide for any additional minister to be introduced; in consideration whereof the ministers assigned to the magistrates all the funds to which they claimed right. The magistrates bound themselves to pay the same stipends, for the years from 1820 to 1825, to the same number of ministers, but if more ministers should, during that period, be brought on the establishment, the 17 ministers were to free and relieve the magistrates of all claims competent to such additional ministers. It was optional to the ministers whether the contract should cease at 1820 or 1825. Whenever it should cease, the magistrates bound themselves to account "to the established ministers of the city for the time being for the whole produce of the funds awarded to them by the Court of Session, with the exception of being allowed to make such deductions as they have claimed for the expense of collecting, and for the repairs of Leith Harbour, till these claims shall be definitely settled, either by future compromise, or by a judgment of the competent court."

Population of Ancient and Extended Royalties.

In the year 1722, the Population of the city, then, as now, divided into nine parishes, and having 16 ministers, appears to have amounted to little more than 25,000. By the last census, the population of the Ancient Royalty is 28,000; while the four parishes of the Extended Royalty have a population of upwards of 27,000.

In addition to the increase of the city by the repeated extensions of the royalty, populous streets and squares have been built around it, not separated or in any way distinct from the rest of the city, and many of them inhabited by the wealthiest of the citizens. This extra-burgal district within the parliamentary boundaries contains about 71,000 inhabitants. It is not subject to the annuity; for the most part, it lies within the parish of St. Cuthbert, or west kirk of Edinburgh, a collegiate charge and an extensive rural parish, the two parochial ministers of which are paid from its teinds, and a great portion of these is still unexhausted. There are also four chapels of ease within this district, built by private subscription, the seat rents of which pay the stipends of their ministers and more than the interest of the money subscribed for building them.

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* *Interlocutor*, 11*th June* 1813.

"Find that the pursuers and their successors, as ministers of Edinburgh, have the sole interest in and exclusive right to the entire produce and benefit of the annuity libelled of six per cent. on the rents of inhabited houses and others, and that the defenders are liable to hold count and reckoning with the pursuers and their successors, for the produce of said annuity," &c.

Interlocutor, 6—7*th July* 1813.

"Find that the pursuers and their successors, as ministers of Edinburgh, have the sole interest in, and exclusive right to, the entire produce and benefit of the duty libelled on the ton and pack of imported goods, and also of the duty or impost on wines, granted by the statute of 26th August 1662, and that the defenders are liable to hold count and reckoning with the pursuers and their successors for the produce of the foresaid duties since the date of citation to this process, and in all time to come, and to pay over the same to them termly and yearly as libelled, and decern: sustain the defences against the pursuers' claim for the produce of the additional impost on wines, granted by the statute of the 11th September 1672, and 25 Geo. III. and also sustain the defences against the pursuers' claim for the produce of the seat rents of the kirks of Edinburgh, and for the produce of the church lands and revenues originally belonging to the popish clergy, and assoilize from the conclusions of the libel concerning the same, and decern. Find that the interest of the pursuers in the produce of the duty on ale and beer is limited to the yearly allowance of £137 17*s.* 8*d.*, payable to the minister of the New Greyfriars' church. Find that the pursuers and their said predecessors have right to the interest of the sum of 4,000 merks, mortified by Lady Yester, and that the defenders are accountable to them for the same. Reserve consideration of the pursuers' claim for manses, or an allowance for manse maill in place thereof," &c.

The Canongate, another populous suburb now included in the parliamentary boundaries of the city, although not united in establishment, has its two parochial ministers maintained by a tax similar to the annuity; but, though levied at the same rate as within the royalty, that tax does not there produce nearly an equal amount of stipend. There are also in this district two chapels of ease whose ministers are not paid from the annuity tax.

It appears, from an official return made to the town council, that the number of seats in the 13 city churches is - - - - - - - - - - - - 14,308

Of these are let:

1. To persons residing within the ancient royalty - -	727	
2. To persons residing within the extended royalty -	4746	
3. To persons residing within the west church parish and adjacent districts beyond the royalties - - -	3826	
Total number of seats let -	9299	
The number of seats unlet is -	5009	
		14,308

The mode of supporting the ecclesiastical establishment of Edinburgh, which has always been felt as a heavy burden on the inhabitants, has become of late years the subject of much discontent; and, without approving of the manner in which it has been expressed, we conceive that there exists some ground of complaint, and that, for the sake of the ministers as well as the community, it is very desirable that their maintenance should be placed on a different footing.

We do not presume to give an opinion upon the question of what is the reasonable extent and population of a parish; but, without going into the discussion of a subject of which we may not be held competent judges, we are inclined to think that if the united population of the whole city, as within the parliamentary boundaries, amounting to 136,000, be taken into account, along with the 30 ministers who have to discharge the parochial duties, the entire ecclesiastical establishments now existing within the present royalty and the extended districts are not more than sufficient for the whole population of both.

When it is considered that the extra-burgal districts, with their population of 71,000, have only five churches and six ministers, while the ancient and extended royalty and the Canongate, with their population of 65,000, have 18 churches and 24 ministers, it must be admitted that the part of those entire establishments which now exists within the royalty exceeds very far its proportion of the total population.

From the actual state of the occupation of the seats of the city churches, it is manifest that the inhabitants of the extra-burgal districts share in the advantages afforded by the parochial establishments of the royalty, and that a reduction of that part of the establishment properly belonging to the present royalty, without a provision for a corresponding increase in the extended districts, would create a deficiency in what ought to be its total amount.

If we are right in supposing that the spiritual wants of the entire population are adequately supplied only through disregarding the parochial and municipal limits which nominally separate them, and which a capricious and exclusive policy might enforce, an attention to the interests of both parties suggests that an equalization of the existing establishments over the present royalty and the extended districts is expedient and desirable, provided, that in arranging the details of such a measure, the local interests of parties can be satisfactorily adjusted.

We are very far from overlooking the difficulties which stand in the way of so desirable an equalization of the advantages and burdens which ought to be common to the inhabitants of one city. We are aware that the population may have been led to settle in the extra-burgal districts on the faith that, as they had hitherto been, so they would continue to be, exempted from the burdens imposed for support of the city clergy. It will be said that the parochial clergy of those districts are provided for by a superabundant amount of teinds, and that additional churches and ministers, when required, can be provided upon the same principle as the chapels of ease already existing, which create no burden beyond the seat rents of the congregations. We can foresee many peculiar and local interests which may emerge to obstruct such a union: and having those complicated difficulties fully before us, we are not the less sensible of the justice of the principle, that those actually deriving benefit from an establishment should contribute to its support. At the same time, we do not conceive that in such an arrangement the city of Edinburgh can be considered as receiving a relief without giving an equivalent. Even if the large revenue from the seat rents of the city churches, and the value of numerous and expensive churches, which may, without inconvenience, be appropriated to a new division of parishes, be left out of view, the common good of the city has from time to time been increased by large grants on account of the clergy; and although these funds have been directed to other uses, and have been imprudently administered, it cannot be reasonably doubted that the vast increase and prosperity of the city, in which the extra-burgal districts fully share, have been in part caused by their expenditure.

If, however, the obstacles that may arise to the adoption of so large a measure should prove insuperable, still it would be expedient that the ecclesiastical establishment within the present royalty should be reduced to somewhat of a just proportion to the amount of the population of the royalties as compared with that of the external districts, by uncollegiating the city churches, and diminishing the number of the ministers to that of the present parishes. If this partial, and, we conceive, unsatisfactory measure shall be adopted, the subject of our inquiry becomes limited to the burdened district. We would willingly avoid interfering with ecclesiastical arrangements, and as in the extra-burgal part of the city they are not mixed up with any tax or any branch of municipal administration, we are satisfied with leaving it to the inhabitants of the external districts to provide for their own spiritual wants, either according to the present laws of the land or by such legislative measures as may be found necessary.

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We cannot help observing that great misapprehension and a large part of the discontent and clamour have arisen from the annuity, a tax not unequal or objectionable in principle, being collected for a few years past as a separate tax for the support of the clergy. We are strongly impressed with the conviction, that ministers to be useful should be freed from the cares consequent upon a fluctuating and precarious income; and nothing in our opinion is more to be avoided, on many accounts, than whatever tends to place them in the situation of personally exacting their stipends from their individual parishioners.

Whether, therefore, the equalization of the establishments, which we have recommended as just and expedient, can be made effectual or not, we recommend that upon either supposition the ministers within the royalty should be maintained by fixed stipends, payable from the general funds of the community, and for the secure payment of which they should be preferable *primo loco;* and that, on the other hand, the several funds now belonging to the ministers of Edinburgh, consisting (among others) of the assessment called the annuity and the impost of merk per pack and ton, should be surrendered by them to the community, with a view to the immediate abolition of the former, and to such modifications of the latter as shall be deemed expedient.

It is not to be expected that in the present state of its finances the city can meet such an increase of its burdens without some equivalent. We have suggested, in our General Report, that the magistrates of all burghs, being now the representatives of the community, should have the power of levying a certain limited assessment. The classes of citizens who have long enjoyed an exemption from all municipal assessments in Edinburgh (which, however, they have waived from time to time, in regard to any measure for the evident benefit of the community,) should no longer retain this privilege. If the establishment be extended over the whole parliamentary boundaries, its burdens will fall comparatively light. If that cannot be effected, it will afford at least some relief, to render subject to the payment of the clergy property yielding a rental of more than £41,000, at present exempted. We have only to suggest, accordingly, that if, upon either supposition, the state of the general funds of the community should create the necessity of imposing or continuing a personal assessment on the inhabitants, such assessment should be borne by the privileged classes at present exempted from local taxes in common with the other inhabitants; it being always understood and provided, that in the event of a general ecclesiastical union of the royalty and extended districts, due regard shall be had, on the imposition of any such assessment, to the amount of burdens already incident on the annexed districts for ecclesiastical purposes, whether as teinds or stipulated contributions, or otherwise.

COMMUTED IMPOST.

8. It has already been stated, that the tax known in Edinburgh by the name of Impost was originally a duty granted to the corporation by a charter of Charles I., ratified by Act of Parliament 11th September 1672, payable upon every pint of wine and other foreign liquors by the importers.

In 1785, the corporation obtained an Act of Parliament for converting this tax, so far as leviable upon private individuals, to an assessment of one per cent. upon all house-rents within the royalty and liberties. The Act 1672, however, was declared "to have full force and effect respecting all vintners, keepers of taverns or inns, and all others who keep public houses, shops, cellars, or other places, wherein these liquors or any of them are or shall be consumed by drinking, and sold for the purpose of being consumed by drinkers." The part of this duty which has not been commuted will be noticed among the indirect taxes affecting the inhabitants.

AMOUNT OF DIRECT LOCAL TAXES.

It thus appears that the proprietors and inhabitants of the ancient and extended royalty of the city of Edinburgh are subject to Taxes levied directly upon rents of houses and shops, which may amount to above 25 per cent., as follows:

	Per Cent.
1. Cess	1¼
2. Road money and (5) Bridewell assessment, about	2
3. Police assessment	6¼
4. Improvement assessment above	3
6. Poor's rates	6
7. Annuity tax	6
8. Commuted impost	1
	25½

EXEMPTION FROM CITY TAXES. (Personal.)

The members of the College of Justice, including most of the large and opulent bodies of the profession of the law, whose privilege of Exemption from Burgal Taxes, alleged to be founded on statutes, has been supported by decisions of the supreme court; the King's tradesmen, as members, it is presumed, of the royal household; and, by usage, the ministers of the city, are exempted from payment of poor's rates, annuity tax, and commuted impost. The estimated rental of houses occupied by members of the College of Justice within the old and extended royalty is £41,479; of charitable institutions, clergy, and King's household, £1,212. About a year ago, the faculty of advocates proposed to abandon their privilege of exemption as members of the College of Justice upon certain conditions, the principal of which was, that an immunity from town taxation should be secured to all persons under £10 of rent. A few months ago, the managers of the charity workhouse, with concurrence of the magistrates, proposed to bring in a Bill to take away the exemption of the privileged bodies, only as regards the poor's rates. The resolution of the members of that body, who had so long before declared their readiness to abandon their legal privileges when it could be done with benefit to the more suffering classes of the community, was, that in regard to any general measure the faculty should consent to a surrender of their privileges upon provision being made for a fair equalization of all the city burdens, and upon certain other useful and equitable conditions; but they resolved to oppose

the proposed Bill, as a partial measure which did not provide for the adjustment of various conflicting interests, and, in particular, was silent with regard to the claims of the clergy at a time when the annuity for their support pressed as heavily on the inhabitants as the tax for the support of the poor.

From all the direct taxes above enumerated, except the assessments for police, for the improvements, and for Bridewell, various districts are exempted, some of them in the very centre of the town, and others now occupied by the most expensive houses and most opulent inhabitants of the city. The whole valued rental within the parliamentary boundaries upon which police assessments are levied, exclusive of South and North Leith, is £344,622. The districts exempted from the taxes imposed by the town are, (Local.)

	£.	s.	d.
1. Part of Pleasance, valued in the police books at -	135	0	0
2. The eight southern districts of the town, containing about 50,000 inhabitants, and yielding a rental of houses, above £5 yearly, by the police books, of -	61,945	0	0
3. Part of Moray Place, &c. - - - - - -	6,617	0	0
4. North-west side of New Town, Inverleith, &c. -	20,011	0	0
5. West Register-street, James-square, part of Leith-street, and part of Catharine-street - - -	6,471	0	0
6. Broughton-place, part of Broughton-street, one side Union-street, Gayfield-square, Gayfield-place, Haddington-place, and Annandale-street - -	10,422	0	0
7. West part of town - - - - - - -	23,977	0	0
8. Morningside and Canaan - - - - -	2,477	0	0
	£132,055	0	0

If to this sum be added the estimated rental of the houses occupied by those bodies and individuals who at present enjoy an exemption from city taxes, it appears that one-half of the property within the parliamentary boundaries is exempted from taxation though enjoying all the advantages and benefits of the taxed districts, and though undoubtedly raised into consequence and increased in value by the expenditure, whether judicious or otherwise, of the great revenue of the city, part of which only is derived from taxes on the property of the inhabitants.

The proprietors of the southern districts are, as has been already stated, rendered liable, by a special statute, to the burgh land tax. The inhabitants are bound to support the police establishment, and are included in the improvements' assessment; but, in other respects, they are entirely exempted from city taxes. The ministers' stipend is there paid from the teinds of the parish, which are yet unexhausted, and from the seat rents of various chapels of ease. The inhabitants of the town beyond the royalty support their own poor, at a somewhat lower rate than can be done in the crowded centre of the city, where the population is at the same time denser, and of a poorer class. On the other hand they are liable for billet money, at the rate of about 1*d.* per pound of rent, from which the royalty is exempted. This tax the inhabitants of the southern districts are of opinion should be dispensed with. The inhabitants, accordingly, state that while the citizens are burdened with a direct local taxation, amounting to 25 per cent. on rental, the local taxes, for all purposes in their districts, are only 12 per cent.; and that, as a great extent of ground is yet unoccupied, there is reason to conclude that the rental may materially increase, without a proportional increase of burdens.

Considerable complaints are made with regard to the mode of Valuing the property liable to taxation, and still more with regard to the expense of Collecting the taxes of the city. It is obvious that, for the collection of a definite sum from a whole town, it is immaterial whether the valuation of the property be correct or not, provided it be fairly proportioned in its parts. But it is very different when the amount to be levied is an indefinite sum arising from a certain per centage on the rental. The same machinery, however, in itself not very perfect, which had originally served for assessing the burgh land tax, and the annuity, while it consisted of a definite sum, has been in later times made to serve for collecting the annuity now indefinite, the poor's rates and the impost,—taxes, the amount of which depends on the valued rental of the city. Thirty stent-masters are appointed by the town council (with a salary of £10 each) to affix a value on the house property within the royalty liable to all these taxes, while each of the eight southern districts chooses two stent-masters for the same purpose with regard to the assessment of their share of the land tax. These officers, so appointed, fix a value or conjectural rental, each for his own district, and according to that rental these taxes are allocated. It is thus the interest of each pair of stent-masters to state as low a rental as possible of the district with which he is connected; and a single instance serves sufficiently to show the practical result of such a system. It is generally admitted that the police tax is collected fairly, and its fairness is secured by a perfect facility of appeal against the valuation of the property, which is always intimated previous to the collection of the tax. The total valuation of the houses of the city, as made by the stent-masters, differs hardly £2,000 from the police valuation, and yet, notwithstanding the near coincidence of the rentals in their total amount, one of the southern districts, which stands in the police books valued at a rental of £61,945, is by the stent-masters valued no higher than £37,899. Another of the southern districts, of less importance, has for several years paid no share of the cess for which it is liable. Valuation Assessment, and Mode of Collecting.

The stent-masters are stated to be somewhat careless in their valuation. No notice of the valuation is served before the collection of the tax, so that the correction of undue assessment is

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rendered difficult. They make no supplementary surveys between terms, so that persons entering to houses at other times than the usual house terms escape. These afford the police a rental sometimes amounting to £15,000 per annum.

A committee of the society of writers to the signet, having the fullest means of information, in 1826 reported the expense of collecting the cess to have been, from the year 1813 to 1823, 40 *per cent.*; and that the sums actually warranted by the council, and assessed in name of costs of collection, amounted to 50 *per cent.* for the year 1823-4, and to 40 *per cent.* for the following year. As a contrast to this the whole assessment for the purposes of police is valued, assessed, and collected, at an expense under 3 *per cent.* It is the opinion of the provost that the "system of rating by stent-masters ought to be done away, and the police roll adopted in its stead." The managers of the charity workhouse, who are the administrators of the heavy tax for the support of the poor, generally object to the mode of assessment by stent-masters, which they say, from its very nature, must want uniformity and fairness; and last year they applied to the town council for permission to employ the police valuator for laying on their assessment, but were met by a statement that the stent-masters were the only legal valuators. It is difficult to ascertain, in the complicated accounts of the city, what the expense of collection now is. It is probably considerably reduced. But it is the general impression of the well-informed citizens of all classes, that whatever difficulties may stand in the way of massing into one collection the whole taxes of the city, such an arrangement alone can secure the most economical and probably the fairest levy of the necessary taxes for the support of the establishment of the city.

Some of the citizens are inclined to doubt whether the assessment upon house and shop rents alone, which is defended as the best criterion of wealth in a city, is in fact the fairest and most equal way of affecting the property of the citizens; and it is worthy of consideration that the great proprietors of the soil draw large revenues, increasing along with the increase and prosperity of the city, without being liable, as superiors, for any part of the city burdens.

INDIRECT TAXES—ALE AND BEER DUTY.

II. 1. The tax called the Ale and Beer Duty, which is a tax of two pennies Scots upon every pint of ale and beer brewed, brought in, vended, tapped, or sold, within the city of Edinburgh, suburbs, and liberties thereof, and also within the parishes of St. Cuthbert's, Canongate, and North and South Leith, seems to have originated in a proposal for meeting "the great debts of the city" in 1653, and to have been granted for the limited period of four years. It was, however, renewed upon the expiration of that period, for the purpose of "satisfying the public debts of the Corporation, amounting in principal and interest to £54,761 1*s.* 9½*d.* sterling." In granting warrant for the passing of that gift, under the Great Seal, (27th July 1658,) "His Highness (the Protector,) by and with the advice of his counsell, do approve of the said Act so far as the same is agreeable to law, and do order that his Highness's counsell in Scotland do have an yearly account of the moneys so to be raised, and that the same be applied to the satisfaction of the said debts, and the interest thereof, and not otherwise." The grant was renewed by King Charles II., and James II., and was ratified by Act of Parliament in 1693, (c. 47,) "and that during the space of fifteen years, and further during their Majesty's pleasure, not exceeding the space of thirty years, as ane just space, and time calculate for the payment and discharge of the town's debt." By that Act, books of the accounts connected with this tax were appointed to be kept distinct from the general accounts of the city, and to be made patent to all the inhabitants. The latter provision, if it was ever effectual, has long gone into disuse.

Notwithstanding the guarded terms of that Act of Parliament, it has been from time to time renewed; and the tax is now collected under an Act passed in 1799, (38 Geo. III. c. 54,) where the purposes to which the produce of the duty is to be applied are declared to be,

1. The charges of levying, collecting, and accounting, &c.

2. Payment of the interest of £73,000, a debt contracted by the city under a former grant in 1723, by the Act 9 Geo. I.

3. Payment of the following salaries:—

	£.	*s.*	*d.*
Professors in College of Edinburgh:			
Professor of civil law	100	0	0
Professor of universal history, Greek and Roman antiquities	100	0	0
Professor of Scots law	100	0	0
Professor of divinity	50	0	0
Professor of astronomy	35	0	0
To the following ministers:			
Of South Leith — 44 10 0			
Of Canongate — 33 6 8			
Of New Greyfriars — 137 17 8			
	215	14	4
Damages sustained by certain proprietors of the parishes of Canongate, St. Cuthbert's, and Leith, by duty	138	13	3
	£739	7	7

The Act appoints the surplus, to the extent of £500 per annum, to be applied as a sinking fund, for paying off the debt of £73,000, and the remaining duties, to the extent of £210 per annum, to be applied to improving the streets and introducing water into the town of Leith, after which, the remainder, if any, is to go to the said sinking fund.

The mode of levying has been twice changed by statute, without, however, any change in the rate. By the last of these statutes (16th July 1830) the brewers of Edinburgh and Leith are required to render monthly to the collector a state of the amount brewed by them, and of the

quantity exported, on which a drawback is allowed. No drawback is allowed on what is sent to private families by land carriage. The excess of the duty above the drawback is paid to the collector.

The official return made by the city of Edinburgh to the House of Commons, in obedience to an order of 17th July 1832, states, that this tax may be estimated as equal to about 1*s.* 4*d.* sterling on each imperial barrel. The brewers of Edinburgh consider that it is equal to 2*s.* per hogshead; and they complain that it is levied equally on beer of 15*s.* a hogshead of price, and on ale up to £9 per hogshead.

The average income from this source, after deducting drawbacks and unrecovered arrears, for five years preceding October 1831, was £3,414 per annum.

Last year the whole amount of duty, in respect of brewing, was	£8,274	0	0
Of which was deducted for drawback on exportation - -	5,364	0	0
	£2,910	0	0
The charges of management were stated at - - -	£151	0	0
Equivalents to heritors in the suburbs - - - -	132	0	0
Salaries to professors and ministers - - - -	531	0	0
Interest on debt under the Act - - - - -	1,850	0	0
Making of total payments - - -	£2,664	0	0

The Act under which the duty is levied limited its endurance to 38 years from 1st July 1799; it consequently expires on 1st July 1837.

It appears that there are of unrecovered arrears £2,964; that no more than £90 has been paid towards the reduction of the principal debt; and that the interest upon the debts secured over this tax had fallen into arrear, on 3rd October 1831, to the extent of £2,919, while the produce was burdened with recent debts incurred to the proper revenue of the city and the Royal Bank, to the amount, at that date, of £1,383. Some of the brewers consider that the mode of collecting the tax, according to the declaration of the quantity brewed, emitted by the brewer himself, is liable to great abuse, and that occasion is taken, in fact, to misrepresent the quantity.

COMMUTED MULTURES.

2. The astricted Multures payable by brewers for malt ground, in lieu of thirlage to the city's mills, are commuted for a charge upon the barrel of ale or beer brewed, at the rate of 2¼*d.* per barrel on (X) strong beer of 40*s.* and upwards of price; and of ½*d.* per barrel on (T) small beer, at 10*s.* per barrel and upwards. All the brewers now use their own mills, and each brewer certifies by a declaration the number of barrels brewed by him monthly, and pays the dues to the chamberlain. No drawback is allowed upon exports.

The produce of this duty was stated, in 1818, to be £177 9*s.* 2*d.*, after deduction of the expense of collection, which is believed at that time to have been £100 a-year. The produce stated by the city for the year preceding 14th September 1833 was £339 0*s.* 7*d.* The increase is caused, in part, by the recent great exportation of ale to London, which is still increasing, and not by any increase of home consumption.

MERK PER PACK AND TON.

3. A charter of Charles I., (1636,) granted to the magistrates of the City of Edinburgh a custom of 13*s.* 4*d.* Scots on each Pack and Ton of goods imported into Edinburgh, Leith, and Newhaven, from countries without the bounds of Scotland, which was ratified by Act of Parliament, (1661,) "to the effect the whole benefit of the said gift might be applied towards the maintenance of the ministers of Edinburgh." The gross revenue derived from this source, collected upon goods imported by the Union Canal to Edinburgh, is, on an average, £592 yearly. The net produce of last year (September 1833) was £453 13*s.* 1*d.*

The produce of the same duty collected at the Harbour of Leith was, on an average of five years preceding October 1831, £3,810.

The produce of this tax, which was found by the judgment of the Court of Session in 1813 to be the property of the ministers of Edinburgh, was by 7 Geo. IV. c. 105, declared liable to deductions for the expense of collection, repairs of the harbour, and £600 annually to be retained by the Corporation, in consideration of their advances for the extension of the pier and improvement of Leith Harbour.

IMPOST NOT COMMUTED.

4. The history of the tax called Impost was given in treating of the direct taxes. It only remains to speak of that part which is Not Commuted for a definite assessment, and which is still leviable from the vintners of Edinburgh. It seems unnecessary to detail the various rates at which this tax is levied on the different liquors which come under it. It is farmed, and the rent for the present year is £180. Both the collector, and the hotel and tavern keepers, who are subject to the impost, object to the inquisitorial method in which it is appointed to be levied; the former, because the constant reference to oath holds out a temptation to perjury; the latter, because it seems vexatious to call upon them both to produce their books when they object to the charge of the collector, and also to make oath that they have not sold the quantity of liquors which he assumes. The equivalent suggested by the vintners is an assessment to be levied upon their house-rents, which they say would yield the necessary sum, if taxed at 1½ per cent.

PETTY CUSTOMS.

5. The Petty Customs, which, in Edinburgh, as in the other burghs of Scotland, are probably the oldest part of the common good, are farmed out to tacksmen, who levy them upon country produce coming to market, according to tables of rates established by the magistrates and council.

The duty called causeway mail is levied upon all hackney coaches, and upon carts, containing certain descriptions of goods coming within the royalty and liberties.

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The customs upon cattle and meat, corn, fruit, and vegetables, together with the causeway mail, which is farmed to the same tenant, produce a rent of - £4,719 0 0
The customs of butter, cheese, and wool, are rented at - 307 0 0
The customs on poultry, eggs, and bread - - - 246 0 0

£5,272 0 0

Though yielding so considerable a revenue, this description of tax is so vexatious and unequal, that it seems very desirable, if any equivalent can be devised, to do away with the petty customs altogether.

It appears from the evidence which we have taken upon this subject, that vegetables, fish, and fruit, pay about one penny on the half-crown, while grain, (except barley, which is not customable,) pays about 1*d.* on the £1 sterling, and cattle not more than 1*d.* on £10 sterling. The customs are much evaded by unusual modes of entering the town. The expense of collection in such trifling sums is necessarily great, so that the community is not benefited in proportion to the pressure on individuals.

The causeway mail is complained of as unequal. Many heavy articles in carts and private carriages, stage coaches, and post chaises, are exempted, while hackney coaches pay £1 each yearly.

LEITH HARBOUR DUES.

6. The common Dues leviable at Leith Harbour, which formed a part of the common good of the City of Edinburgh, probably before the Town of Leith had any existence, and which have always been a very material part of the revenue of the city, have, from recent transactions and Acts of the Legislature, become so mixed up with the expenses and burdens of the Leith Docks, that we have deemed it proper to consider them together in detail.

SECTION IV.

JURISDICTION, &c.

It has been already explained that, under its charters, the magistrates of the City of Edinburgh possess very extensive Jurisdiction, and of various kinds. Besides the ordinary jurisdiction, civil and criminal, common to royal burghs, the magistrates have right to exercise the jurisdiction competent to sheriffs and justices of the peace, and to an inferior Admiralty Court. There is, further, a dean of guild jurisdiction; and lastly, the magistrates sitting in the police court have a special jurisdiction under the police statutes.

These various rights of jurisdiction are exercised in separate courts, and over territories varying in extent.

Courts.

The ordinary civil jurisdiction, common to royal burghs, is exercised by the magistrates, as in other burghs, in the *Bailie Court*. In the same court, the jurisdiction in the character of sheriffs, and as justices of peace, is likewise exercised by the magistrates.

The admiralty jurisdiction has hitherto been delegated to the magistrates of Leith, by whom it is exercised in a court held by them in Leith.

The dean of guild jurisdiction is vested in a court, consisting of the dean of guild and a council, nominated yearly by the town council.

The police jurisdiction is vested in the magistrates, sitting as judges in the Police Court, under the authority of the existing Acts 3 Geo. IV. c. 78, 7 Geo. IV. c. 115, and 2 Will. IV. c. 87.

Territory.

The jurisdiction of the Bailie Court extends over the ancient and extended royalty, the Barony of Portsburgh and Leith.

The jurisdiction of the magistrates sitting in the Bailie Court, as sheriffs and justices, extends over the county of the city, which includes the city and its liberties, viz., Canongate and Portsburgh, North and South Leith, and Newhaven.

The admiralty jurisdiction extends over the county of the city, and to the midwaters of the Frith of Forth, limited on the west by a line drawn from Wardie Brow to the Mickrie Stone; and on the east by a line drawn from the extremity of the Pentland Hills, through the mouth of the River Tummel, to the middle of the Frith east of Inchkeith.

The dean of guild jurisdiction extends over the ancient and extended royalty and liberties.

The police jurisdiction extends over a territory described in the existing statute, and includes a much larger district than the royalty. Cases occurring beyond the city are therefore judged by the sheriff, who sits daily for that purpose in the Police Court.

Ten Merk Court.

Besides the ordinary Bailie Court, where civil cases are tried according to the forms observed in other burghs, there is a court called the *Ten Merk Court*, in which cases not exceeding in amount 11*s.* $1\frac{4}{12}$*d* sterling, (10 merks Scots,) and cases as to servants' wages to any amount, are heard and determined in a summary manner by the magistrates.

Small Debt Court.

The magistrates, as justices of the peace, further, under a provision in the Act 39 and 40 Geo. III. c. 46. § 21 and 22, hold a court, called the *Small Debt Court*, for the county of the city, in which cases under £40 Scots, or £3 6*s.* 8*d.* sterling, are tried agreeably to the forms of the Small Debt Act.

Council Chamber Court.

Finally, the magistrates sit in a court usually known by the name of the *Council Chamber*, which is merely a branch of the Bailie Court.

The distinction between the Bailie Court and the Council Chamber is, that the former sits weekly for the disposal of the ordinary civil causes brought before it by summons, while the latter is a daily court for disposing of summary applications by petition, as for removing, sequestration, liberation on sick bills, aliment under the Act of Grace, &c., and sometimes on matters of contract.

The magistrates exercise their municipal jurisdiction with the assistance and under the advice of Assessors. These are at present three in number, and are advocates of considerable standing at the Bar. They are paid by salaries from the town, and hold their appointments during pleasure. Assessors.

The assessors do not sit together, each assessor acting for two successive months at a time.

The assessors state that they consider themselves to be the official advisers of the magistrates in the discharge of all their judicial duties in the several courts, and that they are sometimes consulted in regard to cases in all the courts, including the Police Court. But the only court in which the assessors regularly attend is the ordinary Bailie Court. Where points of law present themselves in the proceedings of the Dean of Guild Court, the assessors advise the Dean as to the judgment to be pronounced, and, where necessary, view the subject in dispute.

The Bailie Court sits once a week, on Friday, and is attended by one of the bailies and an assessor. A roll of causes is called, and motions are disposed of, under the advice of the assessor. The interlocutory orders and judgments of the week, previously prepared by the assessor, are read in court, and subscribed by the bailie. Each assessor retains before him the cases which came into court during his months of duty, until brought to a conclusion by final judgment. But motions in all cases are disposed of by the assessor sitting at the time.

When requested by one of the parties, the joint opinion of the three assessors is allowed. This is said to happen frequently, and never to be refused, except when the case appears to be very clear, or the application is plainly made for the purpose of delay.

There is a spring and autumn vacation in the Bailie Court, the length of which is regulated by the late Act of Sederunt regarding burgh courts.

The Dean of Guild Court sits once a week. The dean's council consists partly of merchants and partly of tradesmen. It assists him in visiting and inspecting properties. The council receives no emolument for performing this duty. Dean of Guild Court.

The powers of Criminal Jurisdiction of the magistrates are co-ordinate with those of the sheriff, and extend over the county of the city. Practically, however, they are exercised only in the punishment of petty delinquencies which are brought before the magistrates sitting in the council chamber, and disposed of in a summary manner. More serious offences have sometimes been tried formally before the magistrates and a jury, assisted by one of the assessors; but this has been very rarely done, and not at all of late years. Criminal Jurisdiction.

The criminal jurisdiction under the Police Act is exercised by one of the magistrates sitting daily in the Police Court. Before the establishment of this court, the council chamber was the regular court for all police questions. But the statutory jurisdiction has now almost entirely superseded the Council Chamber Court in all cases competent in the Police Court. By the statute, however, its jurisdiction is limited, both as to the description of crimes which it can try, and the extent of punishment which it is competent to award; and for this reason cases are still occasionally tried before the magistrates in the Council Chamber. Police Court.

The Police may apprehend for every description of crime. But (besides the pleas of the Crown) in all cases of house-breaking, or theft by opening lockfast places, or theft committed by one habit and repute a thief, or theft, or reset of theft, or falsehood, fraud, and wilful imposition, all to an amount exceeding £10 sterling; or assault to danger of life or fracture of limb, or with a lethal instrument to the effusion of blood, or with intent to ravish; or theft, reset, falsehood, &c., or assault, aggravated by three previous convictions; or attempt at fire raising, or culpable homicide, or forgery, or uttering, in all these cases the police is incompetent to try, and is required to commit merely, and to send notice to the procurator fiscal of the city or county, according as the crime has been committed within or without the royalty. Police Act, 7 Geo. IV., c. 115, s. 8.

Punishment in the Police Court is limited to 60 days' imprisonment in the Tolbooth or Bridewell, to a penalty not exceeding £10, to ordering payment of damages, where due to a private party, to the extent of £5, and to requiring caution for good behaviour, or keeping the peace for 12 months, to the extent of £20.

The procurator fiscal for the city takes precognitions of criminal offences committed within burgh, but only in minor offences. All cases of importance are investigated by the county fiscal.

We made a requisition on the proper officers for a return of the cases, civil and criminal, tried before the different courts since 1820. But the town clerks reported, that the clerks and extractors attending the different courts professed to be unable to answer our inquiries. From all we could learn in Edinburgh, as in the other burghs of Scotland, the business of the Burgh Court has greatly decreased of late years, having been partly absorbed by the sheriff's Small Debt Court. Extent of Business.

The sheriff has a cumulative jurisdiction within burgh, (except in cases peculiar to the Dean of Guild Court,) and his court is by some practitioners resorted to in preference to the Burgh Court. One witness thinks, however, the Burgh Court has the greater proportion of cases within its own bounds. This witness, a practitioner of long standing and great experience, stated, that he generally preferred the Burgh Court, when competent, because of the more ready and less expensive mode of obtaining execution on its decrees, compared with the Sheriff Court, viz., by act of warding. In removings also from tenements within burgh, the Burgh Court forms are simpler and less expensive than those followed before the sheriff.

Another gentleman of considerable practice before the local courts says that the business of the Burgh Court has fallen away, and he attributes this to the inconvenient arrangement and rotation of assessors, which prevents a uniform and settled form of procedure.

This witness adds, that the facility and cheapness of execution on decrees in the Burgh Court are a considerable ground of preference in its favour; and if, instead of three, there were Declaration of Mr. Lothian, p. 3.

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one assessor, he would, in competent cases, go to the Bailie Court in preference to the Sheriff Court, for these reasons, as well as because competition renders the clerks of court more accommodating.

Declaration of Mr. Lothian, p. 7.

With respect to the Dean of Guild Court this gentleman states, "It is a court of a peculiar jurisdiction; and goes over a larger territory than the royal burgh. It is quite exclusive; the sheriff has no cumulative right to interfere with buildings within burgh. The Dean of Guild Court does not extend over Nicolson-street, and the extremities of the south side, and James-square, and Canal-street, and some other places. In these places, the making of alterations does not render any application to any court necessary, unless a dispute occurs; and I never heard that such a state of matters gave rise to any inconvenience." He complains of its unnecessary and expensive forms, and concludes, "the chief interest that the public have in this court is the protection of the streets against encroachment, and the compelling of ruinous and dangerous property to be taken down, all of which I think might be matter of police. Questions regarding the taking down of old tenements, judge warrants, and all questions at present competent to the Dean of Guild Court, might be taken to the Sheriff or Burgh Courts."

Conflict of Jurisdictions.

No complaint has been made of any Conflict in the Jurisdiction of the Burgh and Sheriff Courts, and their respective authority and powers appear to be well understood. The only chance of such conflict arises from the uncertain boundaries of parts of the burgh, particularly of the regality of Canongate; but questions of this kind are in practice avoided by resorting to the Sheriff Court, which has a concurrent jurisdiction in all cases whatever except proceedings peculiar to the Dean of Guild, whose jurisdiction extends over the Canongate and Leith.

Declaration of Mr. Lothian, p. 9.

Opinions on the necessity and expediency of keeping up the different Burgh Courts.

Several witnesses were examined by us in regard to the utility of so many separate courts, and to the Expediency of merging them all in the Sheriff Court. We had the advantage of examining on this point the Right Honourable Sir William Rae, Baronet, for many years sheriff of the county, Mr. Sheriff Duff, Messrs. Tait and Matheson, sheriff substitutes, and several justices of the peace, clerks of court, and others.

Declarations, Mr. Duff, Mr. Tait.

From the evidence of Sheriff Duff and Mr. Tait it appears that the Sheriff Court could absorb, without any difficulty, the whole civil jurisdiction of the Burgh Courts, were a permanent police judge appointed to relieve the sheriff substitute of his duties in the Police Court. Both these gentlemen express themselves in favour of such an arrangement of jurisdiction as should transfer civil questions to the Sheriff Court, and relieve the sheriff from the obligation of sitting as the police judge. In regard to dean of guild jurisdiction, Mr. Duff distinguishes between the cases in that court which are matters of police, as whether a building is dangerous or threatens encroachment on the street, and those questions which arise between party and party as to their respective legal rights in property. The former he proposes should remain with the dean of guild, and the latter, as questions of civil right, be transferred to the sheriff. Besides this limited dean of guild jurisdiction, Mr. Duff suggests that the magistrates should retain their criminal jurisdiction. The grounds on which he proposes this are, that otherwise they would be deprived of their proper character of magistrates; and by transferring criminal matters to the sheriff, the burgh would be relieved, and the county burdened with the expense of precognitions, and of prosecution of the lesser delinquencies. He would also leave untouched the small debt jurisdiction and the power of sequestration for rents.

Sir William Rae is generally favourable to preserving the present arrangements, which, he thinks, have worked well and given satisfaction; but he thinks it would be an improvement to have only one assessor instead of three. He is not favourable to any change on the existing jurisdictions, either by extending the jurisdiction of the magistrates over the suburban districts, or by merging the different burgh jurisdictions in one court. On this subject he observes,

Declaration of Sir William Rae, p. 1.

"it appears to me to be of advantage, in a great city, that there should be more than one local jurisdiction to which the public may have recourse, and that it would, consequently, be inexpedient to abolish such a jurisdiction where it exists. A competing jurisdiction may, I conceive, be of service even as regards the judge; for no sheriff would like to see the Court of the Magistrates more popular than his own. But supposing no such effect to be produced, I am persuaded that the existence of such a court cannot fail to prove beneficial as regards the subordinate functionaries. I greatly doubt if the inhabitants of Edinburgh would find themselves treated in the same way in the Sheriff Court, if there were not a competing jurisdiction to which they could go in the event of that care and attention not being bestowed upon their cases, and that civility shewn to the practitioners, which they are entitled to expect."

Declaration of Sir William Rae, p. 9.

On the subject of any change in the jurisdiction of the magistrates in criminal matters, Sir William Rae remarks, "I should not think it wise to diminish the jurisdiction of the magistrates in criminal matters. If you are to have magistrates, it should be considered that their respectability depends on the performance of judicial duties. Take from them the power of judging in such matters, and you nearly annihilate their respectability, making them to be looked upon as mere jobbers, engaged in nothing but proceedings connected with the common good of the burgh. Conceiving that the character and status of a magistrate so much depend on the discharge of such duties, I have often regretted that the Lord Provost of Edinburgh did not officiate as a judge, in the same way as the Lord Mayor of London. I should, therefore, be decidedly averse to abridge the criminal department possessed by the magistrates. It is a description of duty to which their minds seem peculiarly fitted; and I do not think there has been any reason to complain of the way in which they have exercised the power. Although, in the Police Court, one man may be more severe than another in his sentences,

yet the result, on the whole, is good; and I do not think it would be wise to make any alteration."

Other witnesses propose a consolidation of the different Burgh Courts into one municipal jurisdiction, extending to the parliamentary boundaries of the city, but cumulative with the Sheriff Court.

Declaration of Sir J. G. Craig.

Sir J. G. Craig gives it as his opinion, "that there should be a permanent officer appointed to take the whole labour of the business of the Police Court, the Bailie Court, the Dean of Guild Court, and all judicial business connected with the city; and this officer should be appointed by the Crown—a sheriff for instance. The duties I have proposed would give plenty of work. The sheriff I mean should not be a sheriff-substitute, but an independent sheriff, with a jurisdiction within the parliamentary bounds of the city equal to the present sheriff. My reason for saying that the judge appointed should not be a sheriff-*substitute* is, that the sheriff of the county has a great deal of labour to perform, and such appointment would save him part of the labour, which, were he to appoint a substitute, he would have to perform in judging of appeal."

Police.

The matters of lighting, cleaning, and watching the city and suburbs, and supplying the inhabitants with water, are regulated by local Acts; the lighting, cleaning, and watching, by the Acts 3 Geo. IV., c. 78, 7 Geo. IV., c. 115, and 2 William IV., c. 87, called the Edinburgh Police Acts; the supply of water, by the Act 59 Geo. III., c. 116, incorporating a joint stock association, called the Edinburgh Joint Stock Water Company.

Supply of Water.

By the Water Company's Act, the various powers and authorities previously granted to the town council of Edinburgh, for bringing Water into the town, and levying a rate on the inhabitants under two former Acts of Parliament, 29 Geo. II., c. 74, and 25 Geo. III., c. 28, are transferred to the company, and additional powers given to obtain an increased supply of water from other and more distant sources. The Act contains various provisions for the security of the public, by limiting the profits of the shareholders, and the rate of assessment on the inhabitants, and otherwise controlling the company in the exercise of its powers. The corporation held certain shares of the stock, and nominates three of the directors. The company subsequently obtained another Act, 7 Geo. IV., c. 108, enabling them to acquire the property of other springs for enlarging the supply of water, and empowering them to carry their pipes to the town and port of Leith.

Lighting, Cleaning, and Watching.

It was not till the beginning of the present century that any general Police Act was obtained for the city. In 1771 an Act was passed (11 Geo. III. c. 36) for the purpose of Cleaning, Lighting, and Watching the streets without the royalty, on the south side of the city, and which were divided into eight districts, called the Southern Districts. And next year another Act was obtained (12 Geo. III. c. 15) for the purpose of lighting, cleaning, and watching the streets, &c., of the Canongate, and the liberties of Pleasance and Leith Wynd, adjoining to the royalty of Edinburgh. In 1785 the Act was passed (25 Geo. III. c. 28) for extending the royalty of the city, and dividing it into two districts, called the ancient and extended royalty, and for various other purposes, in which the commissioners therein appointed were empowered to assess to the extent of 2 per cent. on the valued rent of all houses, shops, and tenements, within both the ancient and extended royalty, for *lighting* the streets of these districts.

Acts Parl., vol. 9, p. 202.

The watching of the city was still, as of old, a burden on the burgesses liable in "watch and waird," upon whom a stent was imposed, under authority of an Act of the Scottish Parliament, 1690, c. 65, to support a military body, called the Town Company, of which the provost was honorary captain. The company, it was declared, should not exceed in number, including officers, 126 men, nor the stent for it £15,000 Scots, the proportion on each burgess being limited to £20 Scots. The watching and guarding of the city, and preservation of the peace, were intrusted to this body till 1805, when the first Police Act (45 Geo. III. c. 21) was passed, which reduced the town company to 37 men, and relieved the burgesses from the burden of their pay, which was laid upon the inhabitants at large.

By this statute the separate Acts of 1771 and 1772, for lighting, watching, and cleaning the Southern Districts, and the Canongate, &c., were suspended, in so far as regarded *watching*, but in other respects continued in force. And the Act 1785 was also continued in force, as regarded the ancient and extended royalty; and the powers of the commissioners under it extended to cleansing as well as lighting the streets. With these exceptions, a uniform system of police was then first established over Edinburgh and the suburbs. The establishment was placed under the management of commissioners, partly official, and partly elected by householders having a certain qualification. The assessment was limited, but extended to members of the College of Justice. A superintendent was appointed, who also acted as a magistrate in the Police Court.

This Act continued in force till 1812, when it was superseded by the 52 Geo. III. c. 172. This latter Act carried the improvement much farther, and laid the foundation of the present system. It suspended the Southern Districts and Canongate Acts, in regard to cleaning and lighting, as well as watching, and repealed the provisions in former Acts, providing for the lighting and cleaning of the ancient and extended royalty by separate Commissioners. The whole business of watching, lighting, and cleaning, was placed under the charge of a single Board. The city and suburbs were divided into 26 wards, each ward choosing one general and two resident commissioners. The Board was composed of the general commissioners, and certain official persons. The assessment was limited to 1*s.* 5*d.* per pound on the

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rent. The bailies were constituted judges in the Police Court, in cases occurring within, the sheriff in those without, the royalty. The superintendent of police was made procurator fiscal of court. This Act was amended and altered in 1816 and 1817, by the Acts 56 Geo. III. c. 74, and 57 Geo. III. c. 33, but without introducing any important alteration on the general plan established in 1812. The benefit of the uniformity and centralization of system then first introduced was quickly felt in the unity and efficiency which they produced, and there has been no attempt since to return to separate establishments for the suburban districts. Their different Acts have continued to be suspended by every subsequent Police Act. The old city guard was finally abolished in 1817.

The Act of 1812 was repealed in 1822, but the new Act (3 Geo. IV. c. 78) adopted the general character of the system which had worked successfully for the preceding 10 years, and re-enacted most of the clauses of the old Act, with some alterations and improvements. The new Act was thought to have ameliorated the system, particularly by allowing a greater control to the rate-payers over the management and expenditure of the establishment. This Act increased the number of wards to 30, and extended the police over a larger suburban district. In 1826 an Act was passed (7 Geo. IV. c. 115), altering and amending the last Act. The endurance of the Act 1822 was 10 years; and in 1832 an Act (2 Will. IV. c. 87) was passed further extending the police bounds, and increasing the number of wards to 32, so as to embrace all the new buildings lying to the north and in the immediate neighbourhood of the city. This was at first opposed by some feuars and inhabitants in these suburbs, on account of the assessment which it imposed on their property, but the opposition was not strenuous, and the public interest so plainly called for the extension, that it was ultimately carried through. The Act of 1832 renewed the two preceding Acts of 3 Geo. IV. c. 78, and 7 Geo. IV. c. 115, except in so far as expressly altered. But the endurance was limited to two years, as the Commissioners had in view to pass a new Act, consolidating the previous ones, and further perfecting the system.

The General Commissioners are 48 in number, 12 *ex officiis*, four elected by public bodies out of their own members, and 32 elected by rate-payers. The official are, the lord provost, four bailies, dean of guild, treasurer, and convener of the trades, the sheriff of the county and one of his substitutes, the senior resident bailie of Canongate, and the convener of the Southern Districts. Those elected by public bodies are chosen by the Faculty of Advocates, the Society of Writers to the Signet, the Society of Solicitors in the Supreme Courts, and the Merchant Company. There are also 64 Resident Commissioners, each ward electing two.

In the Appendix will be found an Abstract of the Revenue and Expenditure of the establishment, for the year from Whitsunday 1833 to Whitsunday 1834, and a general view of its funds and debts.

We have made some inquiry as to the practicability of merging the police board in the town council. In Edinburgh, as in all other burghs, the town council were the original managers of the police, as well as of the other common affairs of the town; and it was only when statutory assessments became necessary for purposes of police, that the inhabitants refused to place such powers in the hands of a body in whose appointment they had no voice. The town councillors are now, however, chosen by the same class of persons who elect the commissioners of police; and that objection being removed, it remained to inquire whether the duties of both offices were incompatible, or too laborious to admit of being discharged by the same individuals.

The result of the evidence taken on this subject was, that a diligent commissioner of police may be employed in the duties of the office three or four hours a-week, and there is reason to expect that the duty may in future become less laborious. Witnesses well qualified to judge of the matter were of opinion that the duties of both offices were compatible, and would not be too oppressive upon the persons on whom they should be imposed.

It is difficult to find a sufficient number of fit persons willing to undertake the offices of town councillors and police commissioners, and it will therefore be a relief to the community to conjoin these. We are further of opinion that the Police Commission, as at present constituted, is considerably too numerous for efficiently discharging its duties.

On the whole, after the maturest consideration, we have to recommend that the duties at present imposed upon the commissioners of police of Edinburgh should in future be discharged by the town council, provided the municipal boundaries shall be extended, so that the councillors shall be elected by the whole body of persons who now vote in the election of police commissioners.

GAOLS.

There are four different places of confinement in Edinburgh:

1. The combined National and City and County Gaol.
2. The Lock-up House.
3. The Canongate Gaol.
4. The City and County Bridewell.

1. The Gaol of Edinburgh, as stated in the preamble of the Act 53 Geo. III. c. 77, "is the common place of confinement, not only of debtors and criminals for the city and county of Edinburgh, but, having been the national gaol of Scotland while that country formed a separate kingdom, is still the public gaol for the whole of that part of the United Kingdom, to which criminals are brought from all parts of Scotland, for the purpose of being tried by the Lords of Justiciary at Edinburgh, and to which criminals convicted before them, and sentenced to imprisonment, are committed for such imprisonment."

The necessity for a new gaol suggested various Acts of Parliament from the year 1786 downwards, all of which were inoperative, until, in 1813, the Act was passed, (53 Geo. III.

c. 77,) by which certain official persons were named commissioners for building the new gaol, and also for erecting buildings for the courts and public meetings for the county of Edinburgh. That Act was altered in the next session of Parliament (54 Geo. III. c. 170); and under the sanction of these two Acts the present gaol was erected.

The funds were raised, first, From the city: by a contribution of £8,000 out of the funds of the city; an assessment of £3,250 upon the heritors of the city and royalty of Edinburgh, South Leith, St. Anthony, and Yardheads, Canongate, and Pleasance, North Leith, and Coalhill, liable in the city land tax; a like assessment of £3,250 on the householders and inhabitants within the same places, laid on according to the house-tax; a contingent assessment of one-third more (£2,166 13*s.* 4*d.*), in case of necessity: secondly, From the county, by a contribution of £5,000 out of an assessment levied on the heritors, householders, and tenants of the county, for the purpose of erecting the county buildings: and, thirdly, From Government, by a grant of £10,000, besides the surplus (unspecified) of monies in the hands of the commissioners under the Act 48 Geo. III. c. 146, for erecting additional buildings for the courts of justice at Edinburgh.

This gaol, which is situated on the Calton Hill, contains both debtors and criminals, though, when planned, it was intended only for criminals, a separate building having been projected for debtors; but the funds fell short of the sum required to complete the original plan, and the debtors' gaol is yet unbuilt.

The accommodation consists of seven day rooms, with airing yards to each, and 54 sleeping cells. One of the day rooms, its court yard, and 10 cells, are appropriated to the debtors.

The number of prisoners, civil and criminal, on 17th October 1834, was,

	Males.	Females.	Total.
Criminal	94	66	185
Civil	24	1	

The daily average, during the 12 months preceding 17th October 1834, was,

Debtors	29
Criminals	125
	154

From this crowded state of the gaol, compared with its accommodation, it has been necessary to put three and sometimes four prisoners into the same cell at night.

From the same cause the classification of the criminal prisoners is necessarily defective; and there is no accommodation for employing the prisoners at work. This is much to be regretted, as it is both a place of confinement upon commitment for trial, and of detention for felons after trial and conviction.

Regulations.

By the Act 54 Geo. III. c. 170, § 4, for building the gaol, the lord provost, magistrates, and council of the city are required to draw up Regulations for its management, to be submitted to and authorized by the Lord President. These appear to have been carefully considered, are judicious and humane, and suited to attain the object of the framers.

The governor has a fixed salary, and is not allowed to receive from any prisoner any fee or gratuity, except the allowance fixed by the magistrates where a prisoner lives in his house.

No fees or gratuities are allowed to be taken by the governor or servants from debtors, except, as in the case of criminals, the authorized rate for lodging in the governor's house.

Fees.

There are, however, certain Fees payable to the Clerk of the Gaol, according to the following table:

Return by the Governor.

Table of Fees exigible by the Clerk of the National Gaol at Edinburgh, per Act of Council, 13th January, 1830.

	£.	*s.*	*d.*
For every attestation of commitment signed by the governor or clerk	0	1	6
For copies of petitions and warrants of commitment, per sheet	0	1	0
Every person imprisoned on letters of lawburrows, if granted by the Court of Justiciary, shall pay, at his liberation	0	2	0
If granted by an inferior magistrate	0	1	0
Each person incarcerated by warrant of the sheriff, or a justice of the peace of the county, shall, at his liberation, pay*	0	1	0
For each petition for the Act of Grace, if prepared by the clerk of the gaol	0	2	6
Each prisoner applying for the Act of Grace, for the clerk's certificate thereto of imprisonment, or of no aliment being consigned	0	1	6
All Government prisoners shall, at their liberation, pay	0	3	4
Under this head *revenue* debtors only are classed, who seldom are able to pay the fee.			
Every person imprisoned for exhibition of papers, or *ad factum præstandum*, at their liberation	0	2	6
For each certificate, on a prisoner's applying for a *cessio bonorum*	0	3	6
All persons imprisoned, or arrested in prison for any civil debt, if under £5, shall, at their liberation, pay	0	1	0

* This fee is very seldom paid or exacted.

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	£.	s.	d.
If £5, and under £10	0	2	0
If £10, and not exceeding £30	0	2	6
If £30, and not exceeding £50	0	3	4
If £50, and upwards	0	5	0

And no person to pay any thing to the servants of the gaol.

Salaries. The establishment of Officers in the gaol, and their Salaries, are as follows:

		£.	s.	d.
Governor	per annum	250	0	0
Chaplain	„	80	0	0
Precentor	„	6	0	0
Teacher	„	25	0	0
Clerk (besides fees)	„	12	12	0
Head turnkey	„	65	0	0
Four turnkeys, each	„	46	16	0
One turnkey	„	41	12	0
Matron	„	36	8	0
Watchman	„	36	8	0

Aliment. The Aliment of the debtors is defrayed by themselves, or their creditors under the Act of Grace. The aliment of the criminal prisoners is, before trial, borne by the city and county respectively; after conviction, by the city alone. The cost of maintaining a prisoner during the last 12 months, including one halfpenny for each day's tobacco, and one penny for washing, cooking, &c., was about 4½*d. per diem.*

The general expense of the establishment, and of upholding the building, is a charge on the city's ordinary revenue.

The management of the Calton Hill Gaol deserves commendation; perfect order reigns throughout; it is kept clean and neat, is well ventilated, and the prisoners have access to an abundant supply of water; but the plan on which it is constructed is faulty. Each division of the prison has a day room, and contiguous airing yard, which, however calculated for the preservation of the health of the prisoners, necessarily leads, where the number confined is so large, to the contamination of the less depraved, by constant and intimate association with the hardened offender. Nor is there any accommodation afforded to those male prisoners who might be disposed to employ themselves at their respective trades, and all of them live in total idleness. The women, however, employ themselves in sewing, under the care of a matron, and juvenile prisoners are regularly instructed in reading and religion. There is no infirmary for the sick.

This prison requires to be enlarged and altered in its arrangements, even should the part presently set aside for debtors be obtained for criminals, by the original plan of a separate gaol for debtors being carried into effect. But there are no funds at present to apply to these purposes.

Lock-up House. 2. The Lock-up House is situate near the Courts, and contains accommodation for those committed for further examination, or for want of bail; besides a cell for condemned persons, who are placed there immediately before execution. Persons sentenced to short imprisonments by the Police Court are also confined there. The accommodation consists of an apartment for the keeper, and seven cells. The number of prisoners, when visited, was 17; but they sometimes amount to 45.

There is a new lock-up house now in course of being finished, situated under the new court of justiciary, and communicating directly with it. It will afford larger and better accommodation than the present. When it is completed, the old one is to be taken down.

Canongate Gaol. 3. The Canongate Gaol, an ancient structure situate in the street of Canongate, and, since the erection of the Calton Hill gaol, only used for the confinement of debtors, is the property of the city of Edinburgh, and maintained and kept up at its expense.

The establishment of officers, and their salaries, are as follows:

	£.	s.	d.	
Governor	150	0	0	per annum.
One male turnkey	0	15	0	per week.
One female ditto	0	6	0	ditto.

The accommodation in the gaol consists of a common hall, eight lodging rooms, containing in all sixteen beds, two consulting closets, a refractory room, a room for the governor, and a water closet. The governor is allowed to let his room for his own benefit to any prisoner, at a rate fixed by the magistrates.

The number of debtors in this gaol, on 22nd October 1834, was 17.

The regulations for its government were enacted by the town council of Edinburgh, and are dated 3rd January 1827. They are nearly the same as those for the Calton Hill gaol.

Fees. The gaol dues are exacted by the governor and clerk partly from the incarcerator, or person interested in the imprisonment, and partly from the prisoner, whether a civil debtor or delinquent.

I.—Dues payable to the Governor by the Incarcerator or Person interested in the Imprisonment.

	£.	s.	d.
For every person imprisoned or arrested in prison for any civil debt, there shall be paid at imprisonment, and when any warrant on which he shall be arrested is booked, for each pound sterling of the debt for which he is so imprisoned or arrested	0	0	6

	£.	s.	d.
For every person imprisoned on any warrant, as being *in meditatione fugæ*, there shall be paid at his imprisonment, if the debt is under £10	0	2	6
If above £10	0	5	0
For every person imprisoned on a warrant of lawburrows, if granted by the court of justiciary	0	5	0
If granted by an inferior magistrate	0	2	6
For every person imprisoned for exhibition of papers, or *ad factum præstandum*, whether by warrant of the supreme or inferior court	0	2	6
For every person imprisoned by any warrant which does not pay fees in terms of the foregoing regulations, except criminal warrants, there shall be paid	0	2	0

II. Dues payable to Clerk of Gaol.

For every attestation of commitment signed by the governor or the clerk, the party requiring the same shall pay	0	1	6
For every diligence or warrant delivered up by the governor or clerk, the party requiring the same shall, if the requisition be made within eight days of the prisoner's liberation, pay	0	0	6
And, if the requisition be made after that period	0	1	0
Every person incarcerated upon letters of lawburrows, if granted by the court of justiciary, shall pay at his liberation	0	2	0
If granted by any inferior magistrate	0	1	0
Each person incarcerated by warrant of the sheriff or a justice of the peace of the county shall, at his liberation, pay	0	1	0
For each petition for the Act of Grace, and for the clerk's declaration thereto	0	1	6
All Government prisoners shall, at their liberation, pay	0	3	6
Every person imprisoned for exhibition of papers, or *ad factum præstandum*, at their liberation	0	2	6
All persons imprisoned or arrested in prison for any civil debt, if under £5, shall at their liberation pay	0	1	0
If £5 and under £10	0	2	0
„ £10, and not exceeding £30	0	2	6
„ £30, and not exceeding £50	0	3	4
„ £50, and upwards	0	5	0

And no prisoner is to pay anything to the servants of the gaol.

The governor of the gaol accounts for the fees drawn by him to the city chamberlain of Edinburgh. His own emoluments are limited to his salary.

Bridewell.

4. The Bridewell is a house of correction for both the city and county. It was established in 1790 by Act of Parliament 31 Geo. III. c. 57. The expense of the building was defrayed by an assessment on the heritors and householders of the city and county of Edinburgh, aided by a Government grant and a public subscription. The original cost was £11,794 16*s.* 9*d.*

The establishment is under the management of commissioners, partly official and partly elected. The official are the lord provost, the Members for the city and county, the four bailies of Edinburgh, the dean of guild, the treasurer, the convener of the trades, the admiral of Leith, the baron bailies of Canongate and Portsburgh, the first resident bailie of Leith, the first resident bailie of Canongate, the sheriff of the county, and his substitute. The elected are seven justices of the peace of the county, chosen formerly by the freeholders, and now since the Reform Act by the commissioners of supply. There are also visiting justices appointed by the county, who make a report to each quarter sessions on the state of the establishment.

Regulations.

The Regulations for the management of this institution are laid down in the Act of Parliament, which, however, gives power to the commissioners to make such additional regulations as may be required. Copies of the statute and an abstract of the existing regulations accompany this Report. The statute provides that the prisoners shall be kept at labour proportioned to their age, sex, and state of health; that regular accounts shall be kept of each prisoner's work; that any profit arising, after paying expense of maintenance, clothing, &c., shall, in case of the prisoner having a wife and family, be paid over to them if the commissioners see cause, and if there be no family, then, in reward of good behaviour in Bridewell, and correct conduct after liberation, to the prisoner himself by instalments; that no corporal punishment shall be inflicted on any prisoner except by warrant of a magistrate, and after proof on oath taken in presence of the prisoner.

The regulations of the commissioners are equally judicious. They refer to the diet of the prisoners; the care of their health—requiring a regular use of the bath; their exclusion from acquaintance; their proper classification where entire separation is impossible from their numbers; the instruction of the youth of both sexes in reading; and the regular attendance of all the prisoners twice a-week at divine service. Both sexes wear a prison dress during the whole period of their confinement.

Expense of Establishment.

The Expense of the Establishment is defrayed by an assessment of 1*s.* 2*d.* per annum on every house within the city and county of Edinburgh rented at £5 yearly and upwards, and of 1*s.* on every ploughgate of land in the county. The produce on an average of the last three years has been per annum £757 17*s.* 0*d.*

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Officers.

The number and description of the Officers of the establishment, with their salaries or allowances, are as follows:

	£.	s.	d.
Governor's salary	150	0	0
Ditto guaranteed per centage on profits of work	50	0	0
Governess	40	0	0
Chaplain } held by same person	30	0	0
Schoolmaster } held by same person	50	0	0
Surgeon	25	0	0
Accountant and clerk to commissioners } the same	75	0	0
Clerk to visiting justices } the same person	12	12	0
Superintendent of work, one at 21s. per week	54	15	0
Ditto, at 18s. ditto	46	18	7
Turnkeys, two at 14s. per week	73	0	0
Ditto, one at 12s. ditto	31	5	9
Watchman, at 14s. ditto	36	10	0
Under female housekeeper, 10s. ditto	26	1	6
Precentor	5	5	0
Officer (one of the superintendents of works)	3	3	0
	£709	10	10

The cost of the prisoners, and the wages of the superintendent of works, are defrayed in part from the profits of the prisoners' labour, which amounted in 1833 to £436 9s. 6½d.

Accommodation.

The building contains 52 working cells, and 144 sleeping rooms; but, of the latter, part are occupied for other purposes, and a considerable number, varying as required, are made use of as solitary working cells for prisoners sentenced to solitary confinement. There are at present only 130 disposable sleeping cells.

The number of prisoners on 17th October 1834 was,

Males	111
Females	129
Total	240

Expense of Maintenance.

The Expense of the Maintenance, &c., of the prisoners, for the year ended 31st December 1833, was,

	Total Cost. £.	s.	d.	Average per Diem for each Individual. d.
Maintenance	546	0	7	1·885
Clothing and bedding	168	19	7½	0·570
Watching, lighting, and firing	152	8	7	0·514
Contingent alimentary charges	174	15	7½	0·590
Total	£1,042	4	5	3·559

By the statute, the expense of maintaining and clothing prisoners is defrayed by the places from whence they are committed.

SECTION V.

Patronage of the Magistrates.

Civil.

The Civil officers under the magistrates and council, and appointed by them, are the following The emoluments of each are stated so far as we have been able to ascertain them:

	Salaries. £.	s.	d.	Fees. £.	s.	d.
1. Two principal town clerks, who are said to hold their offices *ad vitam aut culpam*, who have between them a salary of	160	14	0			
And fees, the average amount of which is about				560	0	0
2. A depute town clerk, who attends to the criminal and police business of the magistrates, and who is also considered to hold his office *ad vitam aut culpam*	171	17	0½	377	11	1
3. Keeper of the council records, including salary from Trinity Hospital and allowance for a clerk	225	0	0	50	0	0
4. Council officer	80	0	0			
5. Five town officers, besides the fees of executing warrants.	195	0	0			
6. Clerk of weigh-house, besides an additional salary of £25 from the tacksman, and fees of which no return can be procured.	25	0	0			

	Salaries. £. s. d.	Fees. £. s. d.
7. Inspector of weights and measures -	33 0 0	
8. Extractor of dean of guild court, about -		300 0 0
9. Three assessors to the magistrates -	255 0 0	
10. Keeper of the register of sasines, appointed by the town clerks, about - -		270 0 0
11. Extractor of bailie court, about - -		60 0 0
12. Clerk of sequestrations and roups -		78 0 0
These two likewise hold their commissions from the town clerk.		
13. Chamberlain - - - - - -	450 0 0	
14. Accountant, cashier, and clerks in chamberlain's and cess office - - - -	605 0 0	
15. Six runners - - - - - -	207 16 0	
16. Thirty stent masters - - - - -	300 0 0	
17. Superintendent of public works - - -	350 0 0	
18. Overseer of public works - - -	78 0 0	
19. Collector, &c., of ale duty - -	77 11 6	
20. Lighter of Tron steeple - - -	10 8 0	
21. Inspector of markets - - -	54 12 0	
22. Clerk of corn-market - - -	33 0 0	
23. Mace and sword bearers - - -	21 0 0	
24. Teacher in lock-up-house - - -	5 0 0	
25. Executioner, besides fees - - -	26 0 0	
26. Housekeeper and servants at city chambers	85 0 0	
27. Keeper of meadows - - - - -	30 0 0	
28. Treasurer of Trinity Hospital - -	200 0 0	
29. Chaplain of ditto - - - -	42 0 0	
30. Housekeeper of ditto - - - -	30 0 0	
31. Surgeon of ditto - - - -	26 5 0	
32. Procurator fiscal - - - -	200 0 0	
33. Law agent. According to business.		
34. Keeper of imperial measures. Fees regulated by Act of Parliament.		
35. Session clerks, about - - - - -		219 0 0
36. Collector of Leith dock and shore dues	400 0 0	
37. Collector of ferry boat shore dues -	54 12 0	
38. Clerk to harbour and dock commission	200 0 0	
39. Bulker of Leith, £115; clerks, £50 -	165 0 0	
40. Town clerk of Leith, who holds his office *ad vitam aut culpam* - - - - -	30 0 0	
No return of fees		
41. Leith town officer - - - - -	15 0 0	
42. Dean of guild officer and town criers. Paid by small fees.		
43. Accountant, for last year - - -	340 0 0	
This officer is not to be continued. His duties are to be devolved upon the clerks in the chamberlain's office.		

The different officers connected with the city gaol and the gaol of Canongate, and the amount of their salaries and emoluments, are stated under those branches of section IV. which refer to these establishments.

The salaries stated above are those now paid. The present magistrates have abolished a considerable number of offices, and have reduced the salaries of others. For example, before the late change in the constitution of the town council, the Lord Provost's salary was £1,000, which is now reduced to £500; the collector of cess, annuity, poor's money, impost, church-seat rents, and assessed taxes for the ancient royalty, had an allowance for himself and his clerks of £1,295 15*s.* 7*d.*, and the chamberlain had £800 a-year of salary, with an allowance of £420 a-year for clerks, and £94 18*s.* to a collector of feu and tack duties. The whole duties of these departments are now performed in the chamberlain's office, at an expense of £1,262 16*s.* But there is a retired allowance to the late collector of cess of £200 a-year, and there was a gratuity of £50 paid to him on retiring. In like manner, the collector of shore dues, who had formerly £600 a-year, is now reduced to £400 a-year; the superintendent of works from £500 to £350, and several other salaries in various degrees. Many other reductions are also proposed, and a very considerable saving in this department may be anticipated from the present magistrates.

All the officers above enumerated are appointed by the town council, by open proposal and vote of the majority, except the stent-masters, who are appointed by the magistrates as commissioners of supply.

All of them hold their offices during the pleasure of the council, except those particularly mentioned above.

The town-clerk of Leith, who paid £1,200 for his office, is the only one of these officers who has paid any consideration for his appointment.

Deputies.

The town-clerk of Leith is authorized by his commission to appoint a Deputy. The duties

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of the harbour and shore-master are now performed by officers appointed by the commissioners for the improvement of the docks and harbour. The duties of the gaoler are performed by a deputy, appointed and paid by himself, for whom he is responsible. There are no other known deputies.

Security.

The chamberlain finds Security for his intromissions, by bond, with two cautioners, to the extent of £3,000 sterling.

The extractor of the Dean of Guild Court finds security for the collection of entry money of burgesses and guild brethren to the extent of £1,000.

The town officers find security to the amount of £50 each.

The clerk of the weigh-house finds security to the amount of £50.

The captain of Edinburgh gaol finds security to the extent of £1,500, by bond, with six cautioners.

The bulker finds security to the amount of £1,000, by bond, with two cautioners.

The collector of shore dues finds security to the extent of £500.

The harbour-master and gaoler of Leith finds security to the extent of £500, by bond, with two cautioners.

University.

The Corporation of Edinburgh are the patrons of the University, and in that character appoint the principal and professors, with a few exceptions, and exercise a direct and immediate control over the whole regulation and discipline of that institution.

The University of Edinburgh owes its origin to the Reformation. Considerable revenues which had previously been appropriated to the support of religious houses, and the endowment of altarages, chaplainries, and prebends, upon the abolition of the Catholic religion remained without appropriation. The magistrates and council considered these revenues as a fit fund for the support of the poor and the encouragement of piety and learning; and, so early as 23d April, 1561, they expressed their opinion, "That the saidis renttis and emoluments be applyit to mair profitable and godlie usis, sic as for sustanying of ye true ministeris of Goddis word, founding and bigging of hospitallis for ye pure, and collegis for leirning and upbringing of the youth, and sic uther godlie works."

The magistrates and council, in the following year, presented a supplication to the Queen, which was favourably received, and they commenced negotiations for a purchase of the Kirk of Field, or St. Mary of the Fields, which was accomplished in 1564; and, in 1566, the Queen granted a charter to the magistrates and council of all the church lands within the city.

During the next 13 or 14 years obstacles probably had arisen which retarded their proceedings: but afterwards they advanced with rapidity. In 1579 a committee was appointed to take steps for founding a college. In 1580, Clement Little, an advocate, presented his library, which was the foundation of the present college library; and in 1582 a legacy of 8,000 merks, bequeathed by the Bishop of Orkney for founding a college, was recovered. On the 14th of April, in the same year, James VI. granted a charter ratifying the previous grant by his mother, and confirming the transactions of the magistrates with regard to the Kirk of Field. The powers given to them with regard to the college are thus expressed: "Ac quia inter privilegia et libertates dicti nostri burgi nunc diversa extant vasta et spatiosa loca, quæ præposito, prebendariis, sacerdotibus, et fratribus, tempore praeterito pertinuerunt, maxime apta et commoda pro constructione domorum et aedificiorum ubi professores bonarum scientiarum et literarum, ac studentes earundem, remanere et suam diurnam exercitationem habere poterint, ultra et præter alia loca convenientia pro hospitalitate; ideo nos enixe cupientes ut in honorem Dei et commune bonum nostri regni literatura in dies augeatur, volumus et concedimus quod licebit praefatis praeposito, ballivis, et consulibus, et eorum successoribus, aedificare et reparare sufficientes domos et loca pro receptione, habitatione, et tractatione professorum scholarum grammaticalium, humanitatis, et linguarum, philosophiae, theologiae, medicinae, et jurium, aut quarumcunque aliarum liberalium scientiarum; quod declaramus nullam fore rupturam praedictae mortificationis: Ac etiam praefati praepositus, ballivi, et consules, ac eorum successores, cum avisamento tamen eorum ministrorum, pro perpetuo in posterum plenam habeant libertatem personas ad dictas professiones maxime idoneas, uti magis convenienter poterint, eligendi, cum potestate imponendi et removendi ipsos sicuti expediverit."

The college having been erected, the magistrates, in 1585, appointed Mr. Robert Rollock to be principal; and in their commission they granted to him "the regentis placit or to be placit in the college, with yair classes, students, and haill body of the samin colledge, to command and govern, according to the lawes, statutes, and foundation yairof; and to take compt of yair doctrine and conversation at all tymes requisit; the offendoures to puneis in their bodies or gudes, or be deprivation or putting forth of yair societie, every ane according to the qualitie of yair trespass, the plaising and depriving of the masters and regentes of the said colledge remaining in the power of us and our successoures, as patrons of the samyne; and generally all and sundry uther things to do, use, and exerce, yat to the said office is known to apperteine, or yat any other principal or first master of ony universities of this realme hes or may do within the samyne, to be frielie and peaceablie bruiked, joised, and usit be the said Mr. Robert, bot ony impediment, reservatioune, or again calling; providing always yat the said Mr. Robert sall be subject to us and our successoures as undoubted patrons of the said college, to be comptrollit for randring of compt upoun the administration of the said office, and to obey and fulfill the comands, reules, and injunctions to be given unto him be us and our successores for the weil of the said college; syklyk yat it sall not be leisum to him to depart fra the said college, leif or renounce his office, without the special guid will, awyse, and consent of us and our successoures had and obtenit yairto."

Regents were also appointed, and public disputations, with annual laureations of students, were held, at one of which, in 1617, James VI. was present; and that learned monarch, in token of his approbation, ordered the college to be called in future by the appellation, which it has since borne, of King James's College.

In 1621 an Act of Parliament was passed, ratifying the rights of the magistrates and council, "togidder with the erectione of the said gryit ludging, manss, and hous of the Kirk of Field in ane colledge for the professioun of theologie, philosophie, and humanitie, &c., in all and sundrie poyntes, passes, heiddes, articles, conditionis, priviledgis, immunities, liberties, and utheris circumstances quhetsomever therein conteinet, after the form and tenor thereof." By this Act, his Majesty, for their farther encouragement, with the advice of the Estates, "hes of new again given, granted, and disponed to them and their successores, in favours of the said burgh of Edinburgh, patrons of the said colledge, and of the rectors, regentis, bursaris, and students within the samen, all liberties, freedoms, immunities, and priviledges apperteining to ane free colledge; and that in as ample form and lairge manner as ony colledge hes or bruikes within this his Majesty's realme; and if need beis, ordaines a new charter to be expede under his Heiness Gryit Seale, for erecting of the said colledge, with all liberties, privileges, and immunities, quhilk anye colledge within this realme bruikis, joisses, or to the samen is known to apperteine."

In virtue of the rights and privileges thus conferred, the magistrates and council have appointed and removed professors, increased their number, fixed the departments of instruction to be given by each professor, and made general regulations for the discipline of the college. The commissions to professors bind them to obey the regulations made or to be made by the magistrates and council; and the professors have yielded obedience, except on a few occasions, in which, however, their resistance proved ineffectual. In 1703 the magistrates and council censured certain proceedings of the professors, and the latter agreed to submit themselves entirely, in relation to these proceedings, to the magistrates and council, and also that a committee of the council should be appointed "for revising the laws of the college, prescribed to them by the town council, and for making such other laws, after the council's hearing of the said masters, as may be thought proper to prevent the like mistakes in time coming, for the wiel and benefit of the college." Again, in 1734, the professors remonstrated against certain regulations as to teaching the Greek class; but in their remonstrance they admitted the powers of the magistrates and council, and submitted to their judgment whether, for the reasons urged by them, it might not be expedient to recall these regulations. In 1824 the professors, conceiving that certain acts of the magistrates, with regard to the regulation of the studies of intending graduates, were injurious to themselves and the students, and to the interest of the University and of learning, endeavoured to obtain a legal remedy; but the Court of Session found "that the pursuers (the magistrates) have the right of making regulations or statutes for the College of King James, and that in respect of the studies to be pursued in the college, and course of study for obtaining degrees, as well as in other respects; finds that the principal and professors of the said college have not right to make regulations, statutes, or laws for the college, in contradiction to the pursuers, or which may not be rescinded or altered by the pursuers; and decerns and declares accordingly: Therefore finds that the resolution of the defenders, of date 25th October, 1824, libelled on, was *ultra vires* of the defenders, and ought to be recalled; and ordains the defenders to recall the same, and decerns; and finds that the order and act of council, of date 26th October, 1825, libelled, and act of visitation libelled, are valid laws of the college, and ordains the defenders to give obedience to the same, and decerns: but finds that there are no good grounds for declaring that the defenders have no right to make regulations or statutes for the college, without the express sanction of the pursuers, which may be valid, provided the pursuers do not previously forbid and afterwards rescind or alter the same, and to that extent assoilzies the defenders, and decerns."*

Such are the powers which a decision of the supreme court has declared to be legally vested in the hands of the town council; and that body, besides enjoying the necessary privileges of patrons, in appointing to vacant offices, now exercises, without control, the power of regulating and changing the fees of matriculation, and those payable for the various classes,—prescribing the course of study for each profession and degree,—creating new professorships, and abolishing professorships formerly existing, and, generally, of directing the whole internal arrangements of the University. We have deemed it our duty to inquire whether these powers are exercised beneficially for the University; and whether its interests require that they should be modified or controlled, or placed in other hands.

We have accordingly examined a number of the professors of the University of Edinburgh, and several gentlemen resident in Edinburgh, unconnected with the college. We also took the opportunity which chance presented to us of ascertaining the views and opinions, on this subject, of some of the distinguished persons who attended the last meeting of the British Scientific Association at Edinburgh.

Of the last-mentioned class of witnesses a great part were, of necessity, but imperfectly acquainted with the constitution and management of our University, and felt diffident in expressing abstract opinions upon a system of which they had no opportunity of watching the working and effects. Of the other classes of persons examined it may be proper to keep in view, that some may have been too long and too intimately connected, directly or indirectly, with

* Magistrates against Professors of Edinburgh, 15th January, 1829.

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the administration of the college patronage, to be sensible even of its ascertained defects; while others, suffering personally under the evils of the present system of management, and having the deepest interest in the welfare of the University, are not, perhaps, entitled to the full weight of calm and dispassionate observers of the conduct of the patrons.

Among persons of such different views and interests a diversity of opinions was to be expected; and we do not consider that it would be satisfactory, or tend in any degree to the settlement of the question, to array these conflicting testimonies against each other. We have thought it better to give a brief statement of the undisputed facts detailed in the evidence, and to endeavour to present an outline of the opinions and arguments of the different classes of persons examined, without attributing to any of these opinions the weight which arises from mere numerical preponderance of witnesses.

The subject of our examination evidently arranged itself under two heads:—1. The patronage, properly so called, or the right of appointing to vacant offices in the University; and, 2. The government and internal regulation of the college.

PATRONAGE.

I. With regard to the Patronage, it was a matter of so much delicacy to call upon those who alone were competent to speak to the facts for an explanation of the individual cases of its exercise; that we have confined our Inquiry to ascertaining the usual method of filling up the vacant offices of the University.

Previously to the late change in the constitution of the councils of Scotch burghs, the town council of Edinburgh consisted, for the most part, of tradesmen and retail dealers in merchandize,* and, with the exception of one *ex officio* member (the president of the College of Surgeons), it did not usually contain any persons of the learned professions, or of much pretensions to literature. Since the change in its constitution, the town council, while it represents more effectually the body of the inhabitants, and may now occasionally contain persons of higher qualifications, is not in effect found to be materially different in the status of its members.† The great majority are still of the same class of which it was formerly composed. There is now no *ex officio* member; but several gentlemen of the medical profession, and unconnected with the University, have become councillors, and some of them who are private lecturers, and are therefore considered by the professors as having interests at variance with theirs, have entered upon office with the expressed intention of devoting themselves to the management and reformation of the University.‡

There has been no vacancy in the offices of the University since the change in the constitution of the town council. When any vacancy formerly occurred, it was not the usual practice for the patrons to take any measures for bringing forward the fittest candidates for the office.§ The persons who came forward were, in almost all cases, previously connected with Edinburgh;‖ and it was the general opinion, that persons from a distance would not have an equal chance of success. A canvass of the electors was always had recourse to; testimonials were printed and circulated; and the electors were personally solicited by the candidates and such influential friends as they could procure.¶ Those members of council who were engaged in trade were frequently solicited in favour of some particular candidate by their customers, and those to whom they were under obligations in business.** There were, accordingly, in the whole history of the University, very few instances of persons not previously connected with Edinburgh being appointed professors. The weight of influence in favour of a candidate, especially for any of the medical chairs, was excessively increased when his appointment would open another vacancy, which, perhaps, in its turn, might be supplied by a professor of a less desirable chair; so that the influence of all aspirants in the remotest degree to the situations expected to become vacant by the advancement of a professor to a higher chair, was brought to bear, in the first place, upon the election of that professor.†† The solicitation on the part of the candidates and their friends was open and avowed. It has been stated to us, that the inducements held out to the electors to support an individual were sometimes altogether independent of the supposed or alleged merits of the candidates.‡‡

GOVERNMENT.

The magistrates have been in the use, from time to time, of altering the *curriculum* of medical graduates; and, in one instance, in adding a class to the prescribed line of study, they ordained the new regulation to operate retrospectively.

They have raised the matriculation fee, and have taken away certain small fees collected by professors for defraying the expense of instruments and class museums; and have declared that collections of apparatus for classes, though made by professors at their own expense, shall become the property of the town.

They have resolved to compel the *regius* keeper of the museum of natural history to admit the whole students of the University, and all persons having orders from members of the council, *gratis*, and the public at a great reduction of the present entrance-money. The professors

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* Evidence of Mr. Solicitor-General Cockburn, Mr. Christison, Dr. John Campbell, &c.

† Evidence of Sir W. Hamilton, Professor Graham, Mr. Cockburn, Sir G. Ballingall, Dr. T. Thomson, &c.

‡ Evidence of Dr. Christison, Dr. Graham, Mr. Cockburn, Sir G. Ballingall, Mr. Christison, &c.

§ Evidence of Sir W. Hamilton.

‖ Evidence of Dr. T. Thomson.

¶ Evidence of Dr. T. Thomson, Dr. E. Turner, Mr. Christison, &c.

** Evidence of Mr. Christison.

†† Evidence of Mr. Christison.

‡‡ Evidence of Mr. Christison, Dr. Graham, Sir W. Hamilton, &c.

state, that the town council has hardly any right of property in this museum, which consists mostly of specimens purchased by the Senatus at a price of £3,000, raised on the personal security of three professors.

The town council has given the under librarians of the college appointments during its pleasure; thus rendering them independent of the principal librarian, by whom they were originally appointed, and under whose control they were placed.

The council has recently resolved upon the creation of a new professorship, upon a branch of a subject already lectured upon by an eminent professor.

All these measures have been adopted, either entirely without communication with the professors, or contrary to the united and unanimous remonstrances of the *Senatus Academicus*.

Opinions on Patronage.

The Opinions of those whom we examined were more at variance upon the question of Patronage, than with regard to the government and internal regulation of the college.

One class of witnesses * considered that the patronage had hitherto been well administered on the whole; and they adduced the prosperity of the University as, of itself, conclusive proof of this. These gentlemen were, consequently, averse to any change in the system. Others, who in like manner approved generally of the conduct of the town council in the majority of instances of its exercise of patronage, expressed themselves with some hesitation upon the subject, and seemed rather to consider it difficult to suggest a satisfactory substitute, than to conceive that the town council is, from its constitution, a body well fitted for the discharge of a trust of that nature.†

These witnesses looked upon the patronage of the University as a vested right of the town council, of which it would be unjust to deprive it, without establishing the existence of gross malversation in its exercise. They maintained, that it was very generally admitted, that the system of University patronage established in Edinburgh was in many respects preferable to either of the other two systems known in Scotland, that, namely, where the Crown is the patron, and that in which the professors elect; and they argued, that it would be rash and imprudent to adopt, upon mere theory, an untried scheme, in the room of one under which the University had arrived at its present rank and prosperity.

On the other hand, many of the professors,‡ and several gentlemen unconnected with the University, but well qualified to judge from local information and intelligence §, expressed decided opinions that the University patronage had not been well exercised, and that the town council, both as formerly constituted, and as recently altered, was altogether unfit for the discharge of such a duty.

They were of opinion that the admitted prosperity of the college was to be attributed to causes unconnected with the system of its patronage; and they found those causes in the rapid improvement of the country, and especially of Edinburgh, during the last century, when alone the University may be said to have flourished—and the favourable situation in which it was placed, by the want of any medical school in England which could grant degrees, together with the exclusion of dissenters from the English Universities.

They maintained, that the common assertion of the University patronage having *on the whole* been well administered, was evidently framed by persons ignorant of a pure system of patronage, since they must conceive that the good appointments were to be set off numerically against the bad; whereas a single appointment of a professor of inferior qualifications, where a better could have been had, really marks the character of the system more than many good appointments, which may have been influenced by causes and motives independent of the merits of the candidates. This class of witnesses were unwilling to point to the particular instances of conduct on which their opinion of the town council was founded; but their objections to it as a body of patrons, though suggested to them on principle, were, they conceived, fully borne out by long experience. These may be stated briefly.

First.—The great number of the members of the town council tends to destroy the feeling of individual responsibility among the electors. This objection may perhaps be less felt in the exercise of the patronage of offices (such as the town clergy) which excite a great degree of interest in the population of the city, because public opinion will be there loudly declared; but it is unreasonable to expect that the appointments to mere literary and scientific offices should excite so strong or marked a declaration of popular opinion as to control men who have any private interest at stake. The numerousness of the electing body must also in a great measure impede that unanimity of conduct which is very desirable in every matter of University government, and which might enable the electors to anticipate a canvass, and at once fix on the most desirable person to fill each vacancy.

Second.—The class of persons of which the council is chiefly composed is not of sufficient intelligence either to estimate for themselves the merits of candidates, or to weigh the representations which may be put forward by others. In a body of such a rank, the practice, now become universal, of circulating testimonials in favour of the candidates, was always useless, and might be prejudicial with the well-meaning and simple elector; the number of these certificates, and the strength of their terms of recommendation, procured by the active and the impudent candidate, might naturally mislead, although it is but too well known how readily

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* Dr. Hope, Professor Dunbar, Provost Learmonth, Dr. J. Thomson, Dr. Turner, Dr. Gairdner, &c.

† Evidence of Dr. Chalmers, Dr. Brunton, Professor Cheape, &c.

‡ Professor Pillans, Professor Napier, Dr. Christison, Sir W. Hamilton, Professor Graham, Sir George Ballingall, Professor Syme.

§ Mr. Solicitor-General Cockburn, Dr. J. Campbell, Dr. Macwhirter, Mr. Christison, Dr. E. Turner, Dr. T. Thomson.

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they are yielded to personal urgency by men who would be far from giving the appointment, if at their disposal, to the person who builds his pretensions upon their good opinion. But these testimonials are, in truth, much more apt to be used as a cloak to screen the electors from censure, when they have resolved to give their votes under a different influence.

Third.—The town council of Edinburgh was formerly subservient to a political party, or to the government of the day, and, in most cases, was controlled in the exercise of its patronage by these; the town council, as at present constituted, is composed of persons who, for the most part, are chosen on account of their declarations of strong political bias. Such party feeling, on whichever side of politics it is displayed, has a tendency to mislead the electors in disposing of their literary patronage, which should not be made subservient to any considerations of party; and it may be feared that the constituency, to whom the council is now responsible, will be too easily satisfied with the reasons of preferring a candidate of popular politics.

Fourth.—The greatest objection to the system of patronage, as hitherto exercised, and as likely to continue, if it is allowed to remain in the hands of the town council, is the existence and encouragement of personal solicitation by the candidates and their friends. Without dwelling on the danger of such influence being sometimes too strong for the elector's sense of duty to withstand, it is such a degrading ordeal for a candidate to undergo, that it may reasonably be conceived to deter many men of sensitive nature, and a high feeling of their own worth, from entering the field at all, while it cannot be doubted that it gives an undue advantage to the man who has influence, and who is unscrupulous in using it.

Opinions on Government.

II. There was no such marked difference of Opinion upon the subject of the Government and internal regulation of the University. Several of the gentlemen examined did indeed express an opinion, that the town council might retain the right to suggest or control the academical regulations; but those most favourable to the magistrates continuing the patrons generally admitted the propriety of giving a power of revision in those matters to a University Court, to be framed somewhat on the suggestions of the late Commission for inquiring into the state of the Universities of Scotland.

On the other hand, the gentlemen who considered the town council as unfit to exercise the patronage of the college, held that body to be, if possible, still less qualified to discharge with advantage the duty of its management and superintendence. They conceived that all the arguments which bore against its exercising the direct patronage applied in an equal degree to exclude it from the management, while there were not wanting additional reasons, which appeared to them of much weight.

First.—The short continuance of the members of the council in office prevents them from ever acquiring a complete knowledge of the affairs and interests of the University; and an institution which, more than any other, requires a steady and undeviating line of management, is thus liable to be made the subject of experiments by the annual supplies of councillors, new in office, ignorant of their duties, and eager to distinguish themselves with their fellow-citizens, by carrying into effect some reformation or plan in accordance with the prevailing humour of the day.

Second.—The admission, into the council, of medical gentlemen unconnected with the University, and in some instances connected with rival schools of medicine, is a new and a dangerous element in the body entrusted with the academical management. It is possible that the praiseworthy resolution of the town council, to bestow none of its patronage upon its own members, may prevent one evident evil which might otherwise have resulted from such a state of things; but it is impossible, by any precaution, to foresee or obviate all the mischievous effects which might arise from the management of the University being virtually devolved upon the teachers or supporters of a rival school.

It may be stated generally, that the evidence which, in our opinion, is entitled to the greatest weight, was favourable to relieving the town council both of the patronage and the management of the University. In particular, this was the opinion of all the distinguished men whom we had an opportunity of examining, unconnected with Edinburgh. Some of these, although at a distance, were previously well acquainted with the history and management of the University*; and although the others were only recently informed of its particular constitution, yet their opinions are entitled to some weight, from their having brought to the consideration of the subject minds not biassed by connexion or any personal feelings.

College Funds.

The Funds of the University are administered by the town council. At Martinmas 1833, the amount of sums mortified in the hands of the corporation for college purposes was stated by the chamberlain to be £13,119, which has been placed by the council as a charge upon the ale duty.

At the same time the college revenue was stated to be:

	£.	s.	d.
1. Feu and teind duties	59	4	7
2. Interest on mortified monies, charged on ale duty, (in arrear for that year,) and made good out of the common revenue of the city	646	0	6
3. Mortcloth dues	135	11	10
4. Incidental	55	6	2
	£896	3	1

* Dr. Thomas Thomson, Dr. Edward Turner, Dr. Yelloly.

The amount of expenditure stated against the college in the city accounts for the year 1832-3 was £1,827 6*s.* 7*d.* About one-half of that sum consisted of salaries paid to principal, professors, and librarians.

With regard to the emoluments derived from the fees of students, and as to the functions and conduct of professors, a very full Report has been laid before your Majesty by the Commissioners appointed to inquire into the state of the Universities and Colleges of Scotland.

CHURCHES. The magistrates and council are patrons of the Churches of the Establishment within the royalty. These churches are 13 in number, with corresponding parishes. Five of the churches and parishes are what are termed collegiate charges, two clergymen being colleagues in each church and its corresponding parish. In each of the other churches and parishes one clergyman officiates, and they are therefore called single charges. The total number of clergymen, therefore, who are nominated to these churches and parishes, is 18. The revenue appropriated for their support is the subject of discussion under the head of Local Taxes, sect. 3. The inferior officers connected with the ecclesiastical establishment of the city are also under the patronage of the council. They consist of

	£.	*s.*	*d.*
14 Precentors, who receive salaries amounting to	295	17	4
10 Bell-ringers - - - - - - -	136	11	8
14 Beadles - - - - - - - -	86	9	0
13 Other servants - - - - - -	195	2	0

The magistrates and council are also patrons of the churches of Currie, in Mid-Lothian, and Wemyss, in Fife; and they exercise alternately the patronage of the united parishes of Fala and Soutra, in the counties of Edinburgh and Haddington. They were formerly patrons of Dumbarnie, in Perthshire, but they sold the patronage in 1820 for £1,400.

The patronage of these offices is exercised by open motion and vote.

The magistrates and council nominate a church treasurer, who is also at present treasurer of the charity workhouse.

The stipends of the ministers of Currie, Wemyss, and Fala and Soutra, are paid out of the teinds of their respective parishes. Their amount is regulated and fixed by the court of teinds.

The ministers of Edinburgh are in a very different situation, but we have fully reported on the provisions for their support in the third section.

SCHOOLS. The magistrates and council are patrons of the High School of Edinburgh, and nominate the teachers, consisting of a rector, four classical masters, and teachers of writing, arithmetic, and mathematics. The magistrates also appoint a janitor. The yearly salaries paid out of the city funds are £33 6*s.* 8*d.* to the rector, £20 to each of the four classical masters, and £6 13*s.* 4*d.* to the janitor. No salaries are paid to the teachers of writing, arithmetic, and mathematics, whose emoluments are derived from the fees paid by their scholars.

The full course of study is seven years; the scholars, in the fifth, sixth, and seventh years, being under the immediate tuition of the rector.

The number of scholars in the respective classes for 10 years, ending in August 1833, was as follows:

Years.	1st Class.	2nd Class.	3rd Class.	4th Class.	Rector's Class.	Total.
1823—24	120	122	98	80	256	676
1824—25	93	120	107	82	203	605
1825—26	108	111	121	107	148	595
1826—27	123	100	105	107	175	610
1827—28	166	122	102	115	153	658
1828—29	144	173	122	91	172	702
1829—30	155	158	166	104	162	745
1830—31	105	146	155	133	168	707
1831—32	107	83	119	137	133	579
1832—33	111	112	79	97	161	560

Thus there has been, latterly, a decrease in the number of scholars; but there seems no reason to apprehend that it is owing to any other cause than the establishment of academies or schools in various parts of the city, which can be more conveniently attended than the High School.

Several schools for English reading and writing and arithmetic were formerly supported by the corporation, but these have been gradually discontinued. There are now only two of the teachers of these schools remaining, and the appointments are not to be renewed.

A small sum (3,000 merks Scots) was mortified about the beginning of last century by Sir James M'Lurg, of Vogrie, for the support of a master to teach poor boys to read and write. This fund was placed under the management of the town council, who in 1824 remodelled the school and appointed a master, who has (inclusive of all allowances) £52 9*s.* 8*d.* from the town, and is allowed to take 6*d.* per month from each pupil, the number being limited to 100. The school is well conducted, and is efficient.

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SECTION VI.

Exclusive Privileges of Incorporations.

The loss of the early charters of Edinburgh renders it extremely difficult to ascertain the history of the various Incorporations, whether consisting of merchants, or of burgesses exercising handicraft and other trades within the bounds of the royalty. There is, indeed, sufficient proof that there was anciently in Edinburgh, as in other burghs, a distinction between the merchants and burgesses, and that the same disputes prevailed between them, in regard to their right to share in the government of the city, which are to be found in the history of most of the large towns; but there are few, if any, authentic documents for discovering the nature or grounds of the claims of those contending parties, except what are to be found in a decreet arbitral of King James VI. in the year 1583, whereby those disputes, so far at least as concerned the government of the city, were for a while terminated, and the government was placed nearly upon the same footing which it continued to retain till the recent statute 3 and 4 William IV., cap. 76.

That decision was chiefly directed to settle the respective shares of the guildry and the crafts in the constitution and government of the city. Their other rights, as corporations or public bodies, are but slightly noticed and partially provided for, and in practice seem to have been in a great measure lost, except in so far as relates to the rights of the separate corporations or trades composing the convenery. By the decreet arbitral, it is provided that neither the merchants among themselves, nor the crafts and their deacons and visitors, should hold particular or general conventions, with the exception that the dean of guild "may assemble his brether and counsel in their gild courts, conform to the ancient laws of the gildry and priviledges theireof." And although the crafts, by the same regulation, could not meet for the purpose of enacting private laws or statutes, there is an exception of their power to convene together for choosing their respective deacons and office bearers; and they might suggest to the magistrates such private regulations as might appear to be expedient, which, with their approbation, might be declared acts or statutes of the incorporation. By a subsequent clause it is provided, "That als weel craftsmen as merchants, sall be received and admitted gild-brether, and the ane not to be refused nor secludit therefra mair nor the uther, they being burgesses of the burgh, als meit and qualified thairfore; and that gild-brether to have liberty to use merchandice. Their admission and tryal of their qualification to be in the power and hands of the provost, baillies, theasaurer, and counsel, with the dean of gild and his counsel, quhilk sall consist in equal number of merchants and craftsmen, gild-brether not exceiding the number of sex persons, by the dean of gild himself; and that no person, of whatever faculty soever he be, sall bruik the benefit of an gild-brother without he be receivit and admittet thereto as said is." And farther, that "na manner of person be sufferit to use merchandice or occupy the handiewark of ane free craft within this burgh, or yet to exerce the liberty and priviledge of the said burgh, without he be burgess and freeman of the same."

It is obvious, from the provisions in this decreet arbitral, that whatever may have been the ancient rights of the guildry, or of the incorporations of craftsmen, whether acting together or in their separate corporations, it was the object of the decreet to connect them as closely as possible with the magistracy and destroy the power of acting separately, except merely that each incorporation of craftsmen continued to choose its own deacon, and to appoint other officers for the purpose of enforcing their exclusive privileges. What were to be the powers of the dean of guild when assembled with his brethren in council in their guild courts, conform to the ancient laws and privileges of the guildry, cannot now be exactly ascertained, from the causes already adverted to; but that there must have been certain known powers and privileges, not meant to be encroached upon, is manifest.

The differences between the merchants and craftsmen still continued, and gave rise to various legal proceedings, which were submitted to the decision of the Earl of Islay, and were terminated in 1730 by his decreet arbitral.

The disputes thus settled appear from the decreet arbitral to have been chiefly, as before, relative to the political rights of the parties or their respective shares in the administration of the affairs of the city. But, among the points connected with the present subject of inquiry, it may be observed that Lord Islay had to determine the legality of various claims made by the incorporations in regard to the management of their own affairs. Among others, he found that the office of convener "has the authority of too long usage, and has been too much admitted by the magistrates and council, to be at this time called in question." But he enforced the regulation in the former decreet against particular or general conventions of deacons and crafts without the advice and consent of the provost and council, and under the exceptions therein set forth. He also declared, "that bye-laws made by the incorporations for themselves are of no force unless they are ratified by the magistrates and council. But finds, that the said magistrates and council have no power to make bye-laws whereby the said incorporations and their successors can be bound to admit all such persons as shall request the same, and shall appear to the magistrates and council to be well skilled and qualified to occupy and practise in their crafts, upon payment of such valuable consideration as should be rated and determined by the said magistrates and council. And likewise finds, that they have no power to control the management of the several stocks belonging to the said incorporations, or to make bye-laws concerning the same."

Guildry.

Under the usage following on these decreets arbitral, one question has given rise to much discussion of late years, and has been strongly pressed on our consideration, namely, whether there be a legal incorporation of the Guildry, and what are their rights and privileges, supposing that they are a lawful incorporation? This was one of the points embraced in the proceedings

of the Select Committee of the House of Commons in 1819 upon the several petitions from the royal burghs; and it appears from the Report ordered to be printed in July of that year that the claims of the guildry had been very fully investigated, and a great deal of evidence, both documentary and parole, taken on the subject. It does not seem to be necessary to enter into an examination of that evidence, but it may be observed that the Committee reported the following opinion, as the result of their inquiry: "Your Committee are of opinion that there is abundant evidence of the original existence of the guildry of Edinburgh as a corporation; that persons admitted guild brethren in terms of the sett of the burgh still possess certain privileges; and that the power exists of continuing the body, by means of the admission of members to participate in these privileges, in perpetual succession, by the dean of guild and his council, members of the body—a power which it does not appear to your Committee can be supposed to exist in any but a corporation. Whether they have lost the right of administering their funds, or of assembling for the regulation of their affairs, is a question which your Committee does not think it necessary to decide. That the funds originally destined to the support of their decayed members, among others, have been long diverted from that purpose, and that rights and privileges they once possessed have been allowed to fall so much into disuse as now to be questioned in a court of law, your Committee consider to be just subject of complaint, and to have arisen from the cause to which the petitioners ascribe it, namely, to the want of any vote or voice in the council." p. 11. Report.

In the mean time, the same questions had been keenly agitated in the Court of Session, in an action brought for the purpose, *inter alia*, of "having it found and declared that the guildry are an incorporation; that they have a right to call upon the dean to convene their body, and for having it ascertained whether or not their funds have been misapplied." It was, however, decided in that action, by the Lord Ordinary Cringletie, that the pursuers had failed in making out their case; and eventually the whole of the legal proceedings between the magistrates and the guild brethren were abandoned under a compromise. 11th January 1820.

Notwithstanding those proceedings, the important questions which they embraced cannot be considered to be adjusted on terms which are satisfactory to any of the parties; and the original difference has been revived, and has received a new impulse from certain clauses in the recent statute, and particularly sections 21, 22, and 23, which the members of the guildry conceive recognise not only their right to elect a dean of guild, but their character and other privileges as an incorporation; and they have, accordingly, acted on that understanding of the statute by electing the present dean of guild. On the other hand, the magistrates dispute this construction of the statute, and insist that the clauses referred to were not intended to confer upon the members of the guildry any rights which did not previously exist; but that, on the contrary, such rights are reserved, and that the important questions in dispute are still left upon the footing of the ancient law and usage.

We do not presume to give any opinion upon the legal question, either as it stood before the late Act, or as it is supposed to have been thereby altered or affected. But it is assuredly very desirable that those differences should be adjusted on fair and reasonable terms. The rights contended for on the one hand, and denied on the other, are very important. By denying to the guildry the character of an incorporation, they complain that they are deprived of many valuable rights, and that even the right of admission to the privileges of their body, the management of their funds, the patronage or right of presentation to public charities, or, at least, a due share of such patronage, have been denied to them. In a memorial laid before us they express their wishes in the following terms: "The guildry do not ask the Legislature to confer any new or exclusive privileges; all that they seek is the unfettered exercise of those corporate rights which are necessarily involved in their corporate character. They once possessed extensive and important privileges, of exclusive dealing in certain wares, &c.: these have now become obsolete; but this they do not regret, and willingly renounce all monopolies and exclusive privileges inconsistent with the public advantage.

"Your memorialists believe that the guildry will not object to any legislative measure, in reference to their exclusive privileges, which is founded on justice, and which applies equally to other corporations; but, apart from any public privileges, or their connexion with the burgh government, it would still be necessary and beneficial to continue the corporation. To members of the body is given, by bequest of the founders, a share in the management of several important charities, and to them has been mortified, by the founders of several institutions, large sums for the education of their children. This right cannot be taken from them; and no public interest can be injured by the continuance of the Guildry as a corporate benefit society, while the necessity of such continuance is established, in consequence of the duties they are thus called upon to perform."

We have not ascertained to what extent, if to any, those who oppose the claims of the guildry are inclined to yield to these demands; and it is understood that no final resolution has as yet been adopted on the subject. In the mean time, however, the magistrates claim, in point of law and usage, the exclusive right of admitting burgesses and guild brethren, (except such as are honorary,) which they say they have enjoyed since the year 1573, having exercised it by the dean of guild, not as the representative of the guildry, but as one of their own body, whose duty it has been to admit such members without any interposition whatever on the part of the guild brethren. In practice, the town clerk signs the tickets of admission, receives the fees, and pays them over to the city chamberlain quarterly. The magistrates thus claim, and have in practice received, the whole of the entry money; and, as the number of guild brethren is estimated at about 1,000 persons, this is obviously a right of considerable value, and has been computed to yield about £800 per annum. Any exclusive privileges of carrying on trade or merchandize formerly enjoyed by the guild brethren in consequence of their admission

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have long ceased, although the craftsmen of the corporations have still, by law, their exclusive privileges, which will be adverted to in the sequel. The only remaining privileges, therefore, of guild brethren seem to be, their relief from payment of a certain part of the shore dues of Leith, and some preference, which, in practice, is given to the children of guild brethren, by admission to some of the charitable institutions. These advantages seem to be still sufficient to induce many to enter who have no intention to carry on any trade or business; and it has been stated that a great majority of the guild brethren of Edinburgh do not reside within the royalty, ancient or extended, or even within the parliamentary boundary.

Formerly the dean of guild was elected, with the other magistrates, by the town council, and possessed a jurisdiction, the nature and extent of which are explained in another department of this Report. It was one of his ministerial functions to admit the burgesses and guild brethren, and he had the management of the churches, and discharged other duties unconnected with his functions as a judge, in which duties he might be controlled by the town council, who elected him. As he still claims the same powers, and the same jurisdiction, that were formerly attached to the office, this is obviously one of the most important questions involved in the right of election now claimed and asserted by the guildry.

The manner in which the dean of guild, in his judicial capacity, is entitled to enforce the exclusive privileges against unfreemen, is by interdicting them from carrying on business within the ancient royalty, until they shall be admitted. Lists of persons so carrying on business are made out, and intimations served upon them, generally by letter, of the impending prosecution. This leads either to an exemption, if the parties have any grounds or interest for obtaining it, or to a prosecution at the instance of the procurator fiscal. But, as any exclusive privileges which may ever have existed in favour of merchants have long since ceased, this procedure is only competent now in regard to unfreemen carrying on handicraft trades, as a means of compelling them to enter.

Merchant Company.

Intimately connected with the guildry of Edinburgh is the incorporation of the Merchants' Company, which, indeed, has plainly risen out of the decay of the older body. It was constituted by royal charter, dated 19th October 1681, which erected "the then haill present merchants, burgesses, and gild brethren of the burgh of Edinburgh, who were importers or sellers of cloaths, stuffs, or other merchandize, for the apparell or wear of the bodies of men or women, for themselves and successors in their said trade in all time comeing, in a society or company, to be designed the Company of Merchants of the City of Edinburgh," which was ratified by Act of Parliament 1693.

A subsequent charter, and two successive Acts of Parliament, the last dated 28th May 1827, have regulated the dues of entry, and authorized the company to admit all persons "being merchants, burgesses, and guild brethren, or entitled to be chosen merchant councillors or magistrates of the city of Edinburgh."

The rate of entry money, as regulated by the last statute, is £63. The company's stock, at September 1834, was £23,776. The income from interest of money, rents of real property, and entry money, &c., amounts to about £1,100 per annum. From this fund the company pays,

	£.	s.	d.
Pensions to 21 decayed members, amounting to - -	301	0	0
„ 38 widows - - - - - - - -	580	10	0
	£881	10	0

And the ordinary expenses of the establishment amount to about £160 yearly.

There is a Widows' Scheme and Fund distinct from the common fund of the company, which has an accumulated capital of about £30,000, and distributes annually to 30 widows about £740.

The incorporation was at one time in the use of exercising the powers conferred by its first charter, of compelling all persons falling under the description in the charter to enter with the company; but it was considered inexpedient to continue this practice, and it has not been enforced for many years.

The Merchant Company have the chief interest, and are the virtual patrons and managers, of three important hospitals; namely, the Merchant Maiden Hospital, George Watson's Hospital, and James Gillespie's Hospital and Free School.

Merchant Maiden Hospital.

The property of the Merchant Maiden Hospital, in landed estates, feu-duties, money lent on bond, and vested in stock, &c., produces an annual revenue of about £4,500.

There are at present 95 girls maintained and educated in the hospital, the whole expense of which establishment was for last year about £2,491; the burdens affecting the landed estates for the same year amounted to about £633.

George Watson's Hospital.

The property of George Watson's Hospital consists of landed estates, money lent on bond, and invested in stock, yielding a gross annual revenue of about £5,000: the public burdens and repairs amount to about £800. The fees and salaries, and incidental charges, to about £900. The payments for apprentice-fees, and allowances to boys attending the University, and bounties to boys on attaining 25 years of age, amount to about £1,500; and at present there are about 78 boys maintained and educated in the hospital.

James Gillespie's Hospital and Free School.

The property of James Gillespie's Hospital and Free School consists chiefly of landed estates, yielding a gross annual revenue of about £1,500. At present there are 42 inmates in the hospital, and 160 boys on the roll of the Free School.

The accounts of these hospitals are annually examined and passed by committees of the directors, and approved and passed at general meetings.

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The Merchant Company have represented to us that some embarrassment has arisen in consequence of the recent change of the election of the town council of the city, which is now too late in the year to enable the town council to send its proportion of the governors of one of those hospitals in time for the commencement of their office under the statute regulating that hospital.

Representation as to time of electing Governor of Merchant Maiden Hospital.

To remedy this inconvenience, it may be proper to declare by Act of Parliament, (1.) that the new governors of the Merchant Maiden Hospital shall, in future, come into office at the general quarterly meeting on the third Monday of January, and continue in office till that day of the following year; (2.) that the accounts of the treasurer of the Merchant Maiden Hospital shall be closed on the 31st December annually.

Suggestions.

Of the Exclusive Privileges of Incorporations.

Under the existing law, no person is eligible as a councillor or magistrate in Edinburgh unless he be a freeman or burgess. This qualification is obtained by payment of a fixed sum, or by serving an apprenticeship in some one or other of the crafts or trades, by propinquity to former burgesses, or by presentation. The price of a burgess ticket to a stranger is £16 9*s*. It is £6 5*s*. 6*d*. if claimed in right of a father or wife; and if in right of apprenticeship to a freeman, it is £8. The general revenue derived to the city from this source is considerable, and, on an average for several years previous to the passing of the Burgh Reform Act, may, as already observed, be stated at £800.

In addition to the qualification of eligibility to the magistracy, the burgesses also have the Exclusive Privilege of carrying on their respective trades within certain boundaries. These exclusive privileges, whether as connected with the burgesses in general, or with the particular corporations, are the proper subject of this head of the Inquiry; and we judged it proper to collect a considerable body of evidence, not only in regard to the privileges, but to the actual situation, in other respects, of the various incorporated trades of the city, from which we required and obtained special Reports, and, in so far as it appeared requisite, examined the office-bearers, and other respectable members of each corporation. The general heads of inquiry, with the reports and evidence, will be found in the Appendix.

Crafts.

There are 14 Incorporated Trades, which were formerly represented in the town council:

1. Waulkers; constituted by seal of cause, 20th August 1500.
2. Surgeons; seal of cause, 1st July 1505; Crown charters, 13th October 1506, 11th May 1567, 6th June 1613; statutes, 1641, 1670; Crown charter, 28th February 1694; statute, 1695.
3. Skinners; seals of cause, 1586, 1630.
4. Furriers; act of council, 7th September 1593, 5th April 1665.
5. Goldsmiths; seal of cause, 20th August 1581; Crown charters, 3rd January 1586, 14th December 1687.
6. Hammermen; seal of cause, 2nd May 1483.
7. Wrights;
8. Masons; } act of council, 15th October 1475.
9. Tailors; seals of cause, 26th August 1500, 20th October 1531, 11th November 1584; royal charters, 18th November 1531, 4th June 1594.
10. Baxters; before 1522.
11. Fleshers; seal of cause, 11th April 1488.
12. Cordiners; seals of cause, 28th July 1449, 26th November 1479, 1st February 1586; Crown charter, 6th March 1598.
13. Websters; seals of cause, 31st January 1475, 27th February 1520.
14. Bonnet-makers; seal of cause, 31st March 1530, ——— 1684.

The corporation of Candle-makers was constituted by charter from the magistrates, 5th September 1517, confirmed by royal charter, 4th May 1597, and ratified by Act of Parliament, 17th July 1695, which conferred the usual privileges of incorporated trades.

The corporation of Barbers, originally united with the Surgeons, had a separate constitution by seal of cause, granted by the town council in 1722.

Neither of these last-mentioned corporations were represented in the convenery or the town council.

All the trades choose their own deacons.

The main object of the inquiries and reports ordered by us was, to ascertain the actual state of each incorporation with reference to their exclusive privileges, and particularly the influence which their practical assertion, under the check of the expense of litigation and uncertainty of the law applicable to this branch of practice, had upon their funds and general prosperity. But, independently of these general facts, we also required those who were intrusted by the incorporations to frame the various reports to state the sentiments of each incorporation upon the question how far the exclusive privileges could be safely abolished, without interfering with the funds, patronage by right of presentation to hospitals, or other advantages enjoyed by them.

Besides the various reports and examinations obtained from the incorporations themselves, there was laid before us a great variety of documents by the non-incorporated tradesmen, complaining of abuses in the exercise of the exclusive privileges; and, in regard to these, we considered it our duty to institute further inquiries, and, by the examination of very respectable individuals, it did appear, that, to a great extent, those complaints were well founded; and that while, on the one hand, many of the incorporations themselves do not regard their privileges as now of any value, those who are exposed to their operation have met with great injustice in consequence of the partial and arbitrary manner in which they have been exercised.

It appears that few of the incorporated trades can be represented as in a very flourishing condition in regard to funds, although some are greatly more so than others. In general, the property of the corporations seems to be prudently managed, and their funds applied to the support of their poorer members and their families, and other proper corporation purposes.

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But there are instances of culpable misapplication. It was proved to us that the incorporation of butchers, on a recent occasion, proceeded to divide £1,400 of their funds, each member receiving £100; an act which may be called in question in a court of law, and which, in any view, we consider to have been quite unjustifiable. But no other case in this burgh of a similar character came to our knowledge; and, in general, the funds were not diverted from the proper objects. In one instance, (that of the bakers,) a widows' scheme has been established by Act of Parliament; but, generally, the incorporations have given such support out of the corporation funds, without any compulsory assessment, and according to the state of the funds.

It did not appear to us that the abolition of the exclusive privileges was considered as likely, in general, to endanger the funds of the incorporations, although, in some instances, a contrary opinion was expressed by those who were examined, or who framed and transmitted reports.

The boundaries over which the various privileges are exercised or claimed are very different. Generally, indeed, they are confined within the ancient royalty, but in some instances they have a wider range. In one, that of the surgeons, the exclusive privileges extend over eight counties, although they are now rarely, if ever, enforced, even within the royalty. In some cases, also, the exclusive privileges have been limited, by usage, within boundaries less extensive than it was originally. In general, the assertion of the privileges has necessarily been affected in Edinburgh, as in most other large cities, by the extension of the city itself, and the addition of large and populous departments not within the royalty, or boundaries over which the privileges by law extend. This has given rise to real or supposed cases of evasion, which have been increased by the use or abuse of the privileges of King's freemen, and by the natural, if not necessary effect of improvements in the different branches of manufacture, which render it difficult to ascertain, without expensive litigation, whether there has been an invasion of the privilege or not; and from these, and other causes, it has appeared to us, that the incorporations of Edinburgh, generally, are averse to expose their funds to the loss arising from legal proceedings instituted for the purpose of vindicating their privileges. Many of them have altogether abandoned the attempt; others have had recourse to a system of compositions, or licences, which has been partially exercised, and, not being regulated by any fixed law, has led to great abuse. One of the incorporations, the bakers, was advised by eminent counsel that it would be illegal to admit strangers without apprenticeship, and they suggest that this power should be conferred upon them by law.

From the returns of the actual prosecutions, and prevailing opinions among the corporations themselves, the following results have been obtained. It appears, that, within ten years, the bakers, who are not unwilling that the privileges should be abolished, on receiving indemnity, have had four prosecutions. The cordiners (shoemakers), within the last 30 years, have instituted but a few, of which no record seems to have been kept, although formerly, and towards the end of the eighteenth century, their privileges were strictly enforced. They do not conceive them to be any considerable inducement to enter, as there are other advantages nearly, if not fully, equivalent to the highest dues exacted; and, under the reservation of these other advantages, they do not think there would be any danger in abolishing the privileges. They consider the corporation to be more flourishing at present than at any antecedent period; and, although they have had recourse to the practice of endeavouring to increase their funds by the system of composition, or licences, there is so little obtained in this way, that it was lately proposed to be given up as not worth collecting. The butchers have not enforced their exclusive privileges at all for at least half a century; and conceive that they form no inducement to enter, and may be safely abolished. The college of surgeons, with their privileges extending, as already mentioned, over eight counties, have only instituted one prosecution within the last 30 years, in which they succeeded, but the individual contrived to evade and disregard the judgment; and they are generally of opinion that such a privilege cannot be exercised by a medical corporation with advantage or credit, whatever other steps may be taken to prevent injury to the public by unskilful practitioners. The barbers, formerly incorporated with the surgeons, have had only five prosecutions within the last 30 years, although formerly very strict in enforcing their privileges; and they are now of opinion that they form no inducement to enter with the trade, and may with safety be abolished, leaving their funds and privileges as a corporation in other respects untouched. The united incorporation of skinners and furriers have not for many years past enforced any of their privileges. There has been no prosecution, in fact, for 30 years; but they are, notwithstanding, of opinion, that the abolition of their exclusive privileges would be ruinous to the corporation. The incorporations of Mary's chapel, consisting of the masons and wrights, including a variety of relative corporations, such as glaziers, plumbers, &c., have hitherto enjoyed exclusive privileges within the ancient royalty. They have reported, that while, on the one hand, the privileges are not supposed to afford any great inducements to enter, it would, on the other hand, be injurious to them that they should be abolished. The hammermen, although averse to the abolition of the privileges, partly because they conceive it would affect their funds, allow, on the other hand, that the mere possession of the privileges does not afford any considerable inducement to enter, and state that they have never been inclined to push them to extremity, and have only had one case tried during the last 30 years. It may be observed, that this incorporation, in answering the question, seem to have laboured under the erroneous impression that the abolition of the exclusive privileges necessarily inferred the destruction of all their other corporate rights. Several of the corporations, such as the candle-makers, waulkers, and hatters, have not expressed any distinct opinion upon the subject. The goldsmiths have had one prosecution within the last 30 years, but do not now think the exclusive privileges of any value, or that they form any considerable inducement to enter, and are, therefore, of opinion that they may be safely

abolished, reserving their other rights as a corporation. The tailors mention six prosecutions within the last 30 years, and are of opinion, that the abolition of the privileges, without some equitable equivalent, would be injurious to their funds for the support of widows, and other charitable purposes. The bonnet-makers (including the dyers) have had three prosecutions within 30 years. They consider their privilege as manufacturers to have ceased by disuse, but have always asserted their exclusive privileges as dyers. These, however, they would willingly surrender on certain immaterial conditions which they suggest. It may be observed that, by statute, the exclusive privileges of the weaver trade have been substantially taken away; and these corporations, both in Edinburgh and in the Canongate, report that they have suffered no injury, inasmuch as they had no prosecutions for 30 years, and had not found that the privileges formed any inducement to enter.

But, while these are the opinions of the various incorporations who have reported in regard to their own privileges, we have ascertained that the general opinion of well-informed persons acquainted with the state of trade and manufactures within the city was, that the time had arrived when the exclusive privileges might safely be taken away, leaving the various incorporations in possession of their funds as benefit societies, with any other advantages of which they might be possessed. See Evidence of John Learmonth, Esq., &c.

The Convenery consists of the fourteen deacons of trades, with two trades' councillors. It is not an incorporation, and has no funds and no patronage; nor does it appear that it has any proper functions, unless, perhaps, the power of calling the attention of the incorporated trades to matters which may affect their corporate rights, collecting their opinions, and affording the means of adopting a common course of proceeding. Convenery.

It is important, however, to observe that the incorporated trades claim valuable rights connected with the management and patronage of several charitable foundations; and they complain that in the instances of Heriot's Hospital, and the Trinity Hospital, their rights are endangered by the interpretation given to the late Municipal Incorporations Act, which, in excluding *ex officio* members from the town council, is held to exclude the deacons and trades from being patrons and managers of those hospitals in which they formerly had so considerable a share as a part of the council.

They maintain that one of those establishments, at least, was endowed expressly for that class of the community which they represent, and that they have "a vested interest in the management of Heriot's Hospital, to the extent of having six deacons governors thereof, and that such number of deacons are, and shall always be and continue, managers of the said hospital, whether such persons shall hereafter be members of the town council or not; and that the right of selection of these six deacons is vested in, and shall henceforward be exercised by, the convenery of Edinburgh."

The incorporated trades have accordingly commenced a suit to endeavour to establish their claim to a share in the management of Heriot's Hospital.

In addition to the interest which the incorporated trades claim in Heriot's and Trinity Hospitals, there is one hospital, denominated "The Trades' Maiden Hospital," endowed and managed by the fourteen trades, the incorporation of barbers, and by a few private individual contributors for the maintenance and education of the female children and grandchildren of decayed craftsmen. This hospital was founded about the end of the seventeenth century, and was incorporated by an Act of the Scottish Parliament, 25th March, 1707. The property of the hospital consists of real estates, feu duties, superiorities, the interest of money lent upon bond, and sums annually contributed by the trades, and has an annual revenue of about £1,350. There are 49 persons maintained and educated in this hospital.

The convener of the trades is *ex officio* a manager or director of various public trusts and charities. He is, among others, a road trustee for the middle district, a trustee for Leith Walk, a commissioner for the gaol and bridewell, a director of the Water Company, and a manager of the Royal Dispensary, and of the Royal Infirmary.

SECTION VII.

Subordinate Districts.

It has been already mentioned that the parliamentary boundaries of Edinburgh include certain Subordinate Districts, subject each to its peculiar jurisdiction. Of these the first in consequence is the Canongate.

The Canongate is one of the most ancient burghs of regality in Scotland. Its charter of erection has been alluded to in noticing the early charters of the city. Canongate.

King David's charter was confirmed by Robert the Bruce and Robert III., and many powers and privileges were, by subsequent sovereigns, conferred upon the Abbots of Holyrood; among others, the power of setting down rules for the government of the inhabitants. The Abbots, in the exercise of this power, are stated to have appointed, as the earliest sett or constitution of the burgh, two bailies, a treasurer, and council, with right to make burgesses and craftsmen, and to hold courts civil and criminal, with privilege and liberty of chapel and chancellary, by issuing briefs, and serving the same before such courts.

These powers and privileges, with certain feu duties and other property, the Abbots afterwards conveyed to the community, reserving nothing but the bare superiority of the burgh.

The Abbots continued superiors till the Reformation. Robert Stewart, Commendator of Holyrood, exchanged the abbacy for the temporality of the bishopric of Orkney, with Adam, Bishop of Orkney. The superiority passed successively into the hands of Sir Lewis Bellenden, of Broughton, and others, and was at last acquired by the city of Edinburgh, about the year 1630.

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While the superiority was yet in the Bellenden family, an attempt appears to have been made to reduce and set aside the rights of the inhabitants. But King James interfered, and by his *signature*, of date 15th June, 1620, in favour of the bailies, council, and community, on the narration that Sir William Bellenden had "nae right to the property of the said burgh in haill or in pairt," but that the same having been "constructed and biggit by the inhabitants and their predecessors," they had "peacibly bruikett and joyed the same past memory of man, by yearly electing their bailies, council, clerk of burgh, serjeants, and officers, making of freemen, crafts, deacons of crafts, setting down of laws and constitution for government of the said burgh, keeping of courts, directing of brieves, and the same yearly authorized by the said Sir William and his predecessors," &c., "renounces and discharges in favours of the said inhabitants the said action of improbation, and all other action that may be intented against the said inhabitants, whereby the estate of the said burgh may be called in question, or their rights quarrelled or impugned in any time hereafter," &c.; and "presently declares the said burgh of the Canongate to be a free burgh of regality, and that the property and jurisdiction thereof properly appertains to the inhabitants thereof, and no others, and the superiority only to the said Sir William and his heirs. And therefore the said burgh, with the haill jurisdiction thereof, shall be freely bruiked by the said inhabitants and their successors, in plein property, as a free burgh of regality, but prejudice of the superiority, with the haill liberties and privileges thereof."

PROPERTY, &c.

The only Property belonging to the burgh consists of,

1. The superiority of certain properties within the burgh and its liberties.
2. A cellar formerly used as a reservoir, now in ruins, which yields no rent.
3. The right to levy petty customs, market dues, and causeway mail.
4. An annual allowance from the police establishment of Edinburgh, "in lieu and place of one-fourth part of the monies arising from the sale of the dung or fuilzie of the streets of Canongate and Pleasance," which had previously belonged to the burgh.

REVENUE.

The Annual Revenue derived from these sources is as follows:

	£.	s.	d.
I. Superiorities.			
1. Annual feu duties	18	5	$1\frac{3}{12}$
2. Compositions on entries of vassals, &c., on an average of the last five years, *per annum*	35	15	$9\frac{8}{12}$
	£54	0	$10\frac{11}{12}$
II. Petty customs, &c.			
1. Petty customs	150	0	0
2. Market dues and causeway mail	67	0	0
But the petty customs having been let for two years, on a *grassum* of £114, in addition to the rent, inde additional value *per annum*	57	0	0
	274	0	0
III. Commutation for fuilzie	60	0	0
	£388	0	$10\frac{11}{12}$
In addition to this the entries of burgesses, and fines on non-freemen, may yield about	30	0	0
	£418	0	$10\frac{11}{12}$

DEBT.

The burgh owes no Debt.

EXPENDITURE.

The Annual Expenditure consists of,

	£.	s.	d.		
I. Salaries, and other annual wages, &c.					
1. To baron bailie, two resident bailies, and treasurer, £3 3*s.* each				12	12 0
2. To Assessor				10	10 0
3. „ Principal clerk				10	10 0
4. „ Assistant clerk	5	5	0		
„ Ditto for engrossing treasurer's account	1	8	6		
				6	13 6
5. „ Procurator Fiscal				2	10 0
6. „ Two burgh officers, £3 3*s.* each	6	6	0		
„ Rents of two houses for them	10	0	0		
				16	6 0
7. „ Person who lights gas at burgh clock	4	4	0		
8. „ Person who cleans clock	1	8	0		
				5	12 0
9. „ Person who rings burgh bell				4	8 0
10. „ Keeper of magistrates' seat in church				1	1 0
11. „ Cleaner of council chamber and clerk's office				0	13 4
12. „ Annual gratuity to Charles Campbell, teacher				3	0 0
Carried forward				£73	15 10

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	Brought forward	£73	15 10
II. Miscellaneous Expenditure. From a state of accounts for the year 1831-2, it appears that after deducting salaries, debts paid, and interest thereon, which, now that the debt has been discharged, will not again occur, this head of expenditure amounted to about - - - - - - - - - - -		180	0 0
Giving a total annual expenditure of - - - -		£253	15 10

This would leave a free surplus revenue of about £150 *per annum*. It was stated, however, that from £350 to £400 would be immediately required for repairing the streets, &c. This and other contingencies would, of course, prevent the surplus from being available as a fund of accumulation for three or four years. But, after making every allowance, it appears that the burgh is in a prosperous state as to its funds, and that its revenues are more than sufficient to meet any expenditure that is likely to be necessary. The best proof of this is to be had in the fact that, for some years past, the burgh has been enabled to pay off the debts with which it was encumbered, and is now wholly free from any such burden.

ALIENATION. There has been no Alienation of real property during the last 40 years.

LOCAL TAXES. The Taxes and Rates leviable within the burgh are as follows:

1. Cess.
2. Annuity.
3. Wine impost.
4. Poor's rate.
5. Petty customs.
6. Market dues.
7. Causeway mail.

CESS. 1. *Cess.*—It has been already mentioned that a certain sum is imposed, *in cumulo*, upon the city of Edinburgh and its whole dependencies; and this again is distributed over, and levied from, the following districts, viz.:

Edinburgh Proper,
South Leith,
Canongate; comprehending Pleasance, North Leith, Coal Hill, and Citadel,
Teviot Row and Laurieston,
Potter Row and Bristo,
George's Square, Nicolson's Park, Cross Causeway, St. Leonard's, Causeway Side, and Toll Cross.

The magistrates of Canongate annually appoint *seven* stent-masters for the Canongate and Pleasance, and *two* others for North Leith, including Coal Hill and Citadel, whose duty it is to survey and report the valued rent of all properties within their respective districts, with the names of the proprietors. The valued rent of the city and its other dependencies having also been ascertained, there is a general meeting of the stent-masters of all the districts, at which the total amount of cess, whereto is added the estimated expense of collection, is apportioned among the several districts according to their several valued rents, and the *quota* of each, as thus ascertained, is then levied by a local collector, who pays over his receipts to a general collector for the city.

The magistrates of Canongate appoint collectors for the two districts within their jurisdiction. The commission paid to these officers, and the other expense of collection, are paid out of the amount levied.

The amount of cess imposed within the burgh of Canongate, and the proportion thereof paid over to the general collector for the last ten years, are as follows:

	Imposed. £.	s.	d.	Paid over. £.	s.	d.
1. For Canongate Proper and Pleasance - -	1608	12	5	822	6	11¾
2. „ North Leith, Coal Hill, and Citadel -	918	2	3	516	3	10¼
	£2526	14	8	£1338	10	10
Giving as the average, *per annum* - - -	252	13	5	133	17	1

The rate of levy has varied in the first of these districts from 1½*d.* to 2½*d. per* pound; in the other from 3*d.* to 4*d.*

The average annual cost of collection has been, on the ten years, not less than about 90 *per cent.* of the tax properly leviable. This, in great measure, has arisen from the expense necessarily occasioned by the small amount of the sums to be levied, combined with the great number of individuals from whom the levy has to be made; and thus far the evil is irremediable, so long as the tax continues to exist on its present footing. But there have also in some years been very great abuses, by imposing an amount of tax altogether unwarranted. For example, in the Canongate district, in 1824-25, while the sum payable to Government was only £85 11*s.*, the amount actually levied is stated at £216 7*s.* 6*d.*, making the cost of collection not less than £131, or at the rate of £154 *per cent.* The magistrates have latterly exerted themselves to check and prevent the recurrence of a result so utterly inexcusable; and

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by the reduction of the collectors' salaries, and the just application of a balance of the surplus which had arisen on the collections of preceding years, they were enabled, in the Canongate district, to save the inhabitants from any assessment in the year 1830-1. But still the cost of collection is out of all proportion to the proper amount of the tax; the very *minimum* of expense being in the Canongate district not less than 70 *per cent.*, and in the North Leith district not less than 56 *per cent.*

Annuity.

2. *Annuity.*—By a statute, dated 5th October, 1633, there is imposed under this name a tax of six *per cent.* on the rents of all property within the parish of Canongate, to be applied, 1st, "for payment to the *first* minister" (of the parish) "of the sum of £500, Scots money," (£41 13*s.* 4*d.* sterling,) "yearly, for a help to make up his stipend;—and 2nd, "the superplus of the foresaid annuity, with the small impost of wine," (to be noticed hereafter) "conform to his late Majesty's gift, to belong to the town of the Canongate, for payment of their *second* minister's stipend, and other pious uses."

This tax is payable only by the tenants and occupiers of property, it being "declared that the said annuity, being only payable by the inhabitants and occupiers, shall not affect the ground of the houses and others foresaids; and that the heritors and others having right to the saids houses, and others above specified, shall not be liable to the samen, except they actually inhabit, occupy, and dwell in them themselffe."

As to the mode of imposition, it is "Ordained that the said annuity shall be layed upon all the inhabitants, tenants, and occupiers, after exact survey be eight sworn men, who shall survey and value the mails and rents of the houses, yards, and others aforesaid."

The tax is to "be collected by the deacons of the kirk session of Halyrood House, or by a collector to be appointed by the baillies and council of the Canongate, in their option, as they shall think fit and expedient for the time."

The amount of annuity imposed and levied during the last 10 years is £6,205 2*s.* 8*d.*, or, at an average, £620 per annum.

Wine Impost.

3. *Wine Impost.*—This tax had its origin in a grant of Charles I. under the privy seal, dated 7th July 1632, "whereby," as set forth in the annuity statute 1663, "his Majesty gave, granted, and disponed to the present ministers of the said kirk of Halyrood House, and to the elders and deacons of the session thereof, and their successors, ministers, elders, and deacons for the time, all and haill the small impost of wines, which hath been vended and sold within the burgh of the Canongate, since the 4th day of January 1630 years, and which shall happen to be vended and sold within the said burgh in any time coming, extending to £4" (Scots,) "of *ilk ton,* to be taken up by them and their successors perpetually in all time coming."

This grant the statute 1663 ratifies and approves. And the impost is directed "to be employed be the ministers of the said kirk, &c., for maintenance of the *second* minister at the said kirk, and other pious uses."

Poor's Rate.

4. *Poor's Rate.*—An assessment is annually imposed on the heritors and tenants within the parish for the maintenance of the poor.

It was at one time disputed to whom belonged the right of imposing this assessment. But the parties interested having submitted the matter to David Hume, Esq., Professor of Scots Law, now one of the Barons of Exchequer, he pronounced a decreet arbitral, by which it was determined that the right belonged to a general meeting, to be called by, and in name of, the magistrates of Canongate; that to this meeting the clerk of the burgh should *ex officio* be clerk, and that the said meeting "does and shall consist of the baron bailie of Canongate, the other bailies thereof, and the burgh treasurer, the bailie of the Potterrow," &c. This decreet has been since acquiesced in by all concerned.

The amount levied in name of poor's rate for the last ten years (excluding 1824-5, which is stated not to be known,) is £7,098 8*s.*, giving an average per annum of about £709. For the year 1823-4, it amounted to £701 7*s.* 6*d.* In 1832-3 it had risen to £952 14*s.*; so that there is a tendency to increase. The rate has varied from 1*s.* to 1*s.* 6*d.* per pound, this last being the rate for the year 1832-3, the latest which has been reported to us.

Petty Customs.

5. *Petty Customs.*—By an Act passed in the 13th of James VI., and continued by subsequent Acts, the magistrates are empowered to levy certain customs at the Watergate upon carts, &c., entering the burgh.

These customs the magistrates have been in the practice of farming out by public roup, upon leases of two years. The rent stipulated by these leases has, at least of late, been always the same, viz., £150 per annum. But, besides this rent, the tenant taken is bound to pay a grassum; and it is upon this grassum that any rise or fall takes place in what is received by the burgh. He who offers the highest sum in name of grassum is preferred as tenant. At the last roup, the grassum obtained for the two years of the lease was £114.

Market Dues.

6. *Market Dues.*—These are levied from the keepers of green and fruit stands within the burgh and its liberties, at the rate of 5*s.* *per annum* each, and upon fish, fruit, and vegetables sold in the market or streets, by virtue of the charter of the burgh, and the usage which has followed thereon.

They are farmed out along with the causeway mail, by public roup. The present lease is for two years, the rent for both market dues and causeway mail being £67 *per annum.*

Causeway Mail.

7. *Causeway Mail.*—This is a duty of 11*s.* 1½*d.* *per annum* for each hackney coach kept in the Canongate, and licensed to ply on the streets of Edinburgh and its suburbs. It is said to be levied in virtue of an Act of the magistrates of Canongate in 1669, which has been confirmed by several decisions of the Court of Session.

These petty customs, although so trifling in amount, are stated by the present tacksman to

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be vexatious, from the mode of collection, and oppressive to the poorest classes. He considers that the tables of rates require revision.

Exemptions. There is no Exemption from any of the above taxes in favour of the burgesses, inhabitants, or any other class of individuals.

Jurisdiction. The magistrates of Canongate have the ordinary Jurisdiction of bailies of regality; though, for a number of years, they have not exercised this jurisdiction in *criminal* matters.

In Criminal Matters. They hold a weekly court for *civil* causes, in which they dispose of the same classes of questions that are competent to sheriffs and magistrates of royal burghs. The number of causes, including both ordinary actions and summary applications, may, it is stated, amount to upwards of 100 yearly.

In Civil.

In Small Debt Court. They also hold weekly a *Small Debt* Court, in which causes not exceeding £5 sterling are tried *vivâ voce*. No distinct record of this class of causes appears to have been kept previous to April 1821; but the number of cases disposed of from 1st April 1821, to 1st April 1833, amounts to 8,092, thus averaging about 670 yearly.

In Services. General Services are expede before the magistrate to the number, on an average, of more than 100 each year. This number, so disproportioned to the consequence of the burgh, is apparently caused by the facility with which they may be carried through this court. The bailie generally sits without an assessor; and services can be carried on very insufficient proofs. One gentleman of much experience says "a service in the Canongate is a mere standing joke."

As Justice of Peace. The magistrates act also as Justices of the Peace within the territory of the burgh, in all matters falling under the cognizance of justices.

Assessor. The magistrates are assisted by an Assessor, who is at present a member of the faculty of advocates. He is appointed by the town council of Edinburgh, as superiors of the Canongate. His appointment is during pleasure. Though neither the magistrates nor the community have any voice in his appointment, his salary, which has been already stated, is paid from the funds of the burgh.

Bounds. The Jurisdiction of the magistrates extends over the whole territory of the burgh, including Canongate Proper, the Abbey of Holyrood House, Pleasance, North Leith, and Coal Hill.

Patronage. The civil officers under the Patronage of the magistrates are,

Civil.

1. Collector of cess for Canongate district.
   Ditto for North Leith district.
2. Depute collector of ditto for Canongate district.
   Ditto for North Leith ditto.
3. Clerk to ditto for Canongate district.
   Ditto for North Leith ditto.
4. Seven stent-masters for Canongate.
   Two ditto for North Leith, Coal Hill, and Citadel.
5. Collector of annuity.
6. Clerk to ditto.
7. Eight annuity stent-masters.
8. Procurator fiscal for the burgh.
9. Two burgh officers.
10. Four baton-men, and two ushers at funerals within the parish.
11. Two grave-diggers for the parish church-yard.

No price or other consideration is paid by any of these officers for their appointment. They hold their places during the pleasure of the magistrates. The depute collector of cess, and the two burgh officers, find security for the faithful discharge of their duties.

The only offices to any extent performed by deputy are the two collectorships of cess. The principal collector signs the receipts, and receives the money as collected from his deputy. The latter has the active charge of gathering in the assessment. The duty of the clerk is to calculate the amount of cess payable by each heritor, and to write out the receipts. Besides this, the clerk for the Canongate district keeps the accounts of the magistrates as commissioners for levying the tax.

The salaries of all these officers are paid out of the money collected.

The collector of the annuity tax is allowed 5 *per cent.* on his collections. Both the collector's and clerk's allowance are paid out of the money collected.

The procurator fiscal is paid from the funds of the burgh. His salary is £2 10*s.* yearly. He receives, besides, a fee of 6*d.* on the entry of each burgess.

The two burgh officers are paid a salary of £3 3*s.* each, also from the burgh funds. They have also a fee of 3*s.* for every service expede before the magistrates, and the usual fees of citation, &c., in the causes which come before the burgh, and small-debt courts.

The baton-men, ushers, and grave-diggers, receive no salary from the burgh, but are paid certain fees, fixed by the kirk session, by those who employ them.

Ecclesiastical. The parish of Canongate is a collegiate charge, there being a first and second minister.

Parish Church. The Crown is patron of the first.

The magistrates, treasurer, deacons of trades, and the heritors and kirk session of the parish, are joint patrons of the second.

First Minister. Second Minister. Each of the clergymen has a stipend of £240 *per annum*. The First Minister has a manse. The Second is paid £50 *per annum* additional, in name of house-rent; besides an occasional present of about £20. Altogether, each of them receives what may be equivalent to £300 *per annum*.

The first minister is partly paid from the public exchequer, viz., £21 2*s.* 2½*d.*, which is

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believed to come out of Bishop's rents belonging to the Crown, with a certain amount of victual stipend, which varies in value from £50 to about £60 *per annum*. The remainder of his stipend is made up from the annuity tax, and from a sum of £33 6*s*. 8*d*. annually received from the city of Edinburgh out of the duty on ale and beer.

The second minister is wholly paid out of the annuity tax and the above sum of £33 6*s*. 8*d*.

EXCLUSIVE PRIVILEGES.

None but burgesses or freemen of the burgh are entitled to carry on trade or manufactures within the bounds; and in those callings which fall within the Exclusive Privileges of the incorporated crafts, it is necessary, besides the qualification of burgess, to be an entered member of the particular craft.

The fee for admission as burgess is, to a stranger, £3 3*s*.; but to the children of a burgess only £1 11*s*. 6*d*.

The number of burgesses cannot be exactly ascertained, but it has been estimated to amount to about 400.

There are *eight* incorporated crafts within the burgh, all enjoying exclusive privileges, and possessed of funds, which are appropriated to the support of poor members and the widows of deceased members. These are the

Hammermen.
Tailors.
Wrights.
Bakers.
Shoemakers.
Weavers.
Fleshers; and
Barbers.

The tailors have had no prosecutions for a great number of years, but are unwilling to abolish the exclusive privileges without compensation. The fleshers of the Canongate, differing from those of Edinburgh, conceive the exclusive privileges a great inducement to enter, and are, consequently, against their being abolished, at least during the existence of the present members. The barbers have had no prosecutions for the last 20 years, and only two within 30 years; and, considering the privileges to be no inducement to enter, they think they may be safely abolished, reserving to them their funds and other advantages. The hammermen of the Canongate have had 10 prosecutions within the last 30 years, but report that the privileges do not form any considerable inducement to enter, and may with safety be abolished.

The magistrates are in the practice of granting *temporary* licences to unfreemen at the rate of from 5*s*. to 10*s*. annually. These licences entitle them to exercise any calling not falling within the exclusive privileges of the crafts. If the persons obtaining such licences afterwards enter as burgesses, deduction is made from the ordinary fee in respect of their previous annual payments.

None of the burgesses or members of the incorporated crafts derive any advantage individually from the common good of the burgh.

POLICE.

The burgh of Canongate is included in the general Police Act for Edinburgh. It had formerly a Police Act of its own, but it is suspended during the continuance of the general Act.

ABBEY SANCTUARY.

Connected with the burgh of Canongate is a court of a peculiar nature and jurisdiction, of which it is necessary to take notice. This is the bailie court of the Abbey of Holyrood and the Sanctuary.

During the time of popery, the Abbey of Holyrood possessed the privilege of sanctuary, which then appertained to many religious houses. After the Reformation it continued, as a royal palace, to be regarded as an asylum for debtors, and perhaps petty offenders, and it still retains its privilege of exemption from personal arrest for civil debts. This privilege has been recognised by various decisions of the supreme court, and by an Act of the Scottish Parliament in 1696, and subsequently by the various Acts of the Imperial Parliament called the Bankrupt Acts.

Mackay against Campbell, &c., 15th December 1714.

It is the only sanctuary in Scotland. The same privilege was at one time claimed for the castle of Edinburgh, but the Court of Session disallowed it.

Bailie.

The Bailie of Holyrood is appointed by commission from the Duke of Hamilton, as hereditary keeper of the palace, and holds his office during pleasure. His commission gives him power to appoint a substitute, and to name fiscals, clerks, and other officers of court. The present bailie is Mr. John Dickie, writer to the signet. The bailies have always been professional gentlemen of respectability.

JURISDICTION.

The Jurisdiction of the bailie is that of regality, and it was not affected by the Act abolishing heritable jurisdictions, being a royal residence and a regality, independent of a superior. Accordingly, letters of horning are issued on the bailie's decrees, under the authority of the statute 1606, cap. 10; and in 1818, the Court of Session, in a case occurring before it, recognised the bailie as the judge of an independent regality.

Civil and Criminal.

The jurisdiction is both Criminal and Civil, and, from the diet books of court, the bailie seems to have exercised it at different times to a very considerable extent. In criminal cases he has pronounced sentence of banishment, pillory, and imprisonment, required bail to keep the peace, inflicted fines, &c. In civil cases he has entertained personal actions upon contracts to an unlimited extent, actions of rent, sequestration, removing, ejection, spuilzie, furthcomings, mails and duties, exhibition, scandal, &c.; and these whether the parties residing within his territory had the benefit of the sanctuary or not. The jurisdiction of the bailie is recognised and reserved in the Police Act for the city of Edinburgh.

Privative.

The bailie's jurisdiction is in some respects Privative. He alone can grant warrants against

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persons within his jurisdiction, and his concurrence is necessary to the civil warrant of other judges. Hornings and captions, even those following on the bailie's own decrees, require his concurrence before they can be executed. In cases of persons enjoying the benefit of the sanctuary who are suspected of being *in meditatione fugæ*, the bailie must be applied to in the first instance to grant warrant to arrest.

Generally, the bailie's jurisdiction, both civil and criminal, is that of a sheriff, with the addition of the privative jurisdiction already mentioned, and the powers possessed by him as the guardian of the sanctuary.

Courts.

The bailie holds Courts weekly within the court-room of the abbey. The regulations of court were lately revised by eminent counsel, and the mode of procedure before the court has been nearly assimilated to the forms observed in the Court of Session and Sheriff Court. Where, however, the debt is under £10, the pleadings are *vivâ voce*, unless the bailie considers it necessary to order written pleadings.

The number of *civil* cases during each of the last 10 years is as follows:

1824	37
1825	37
1826	47
1827	29
1828	22
1829	24
1830	41
1831	46
1832	43
1833	38
1834 to October 31st	28

The *criminal* cases during these years have been nine in number. The establishment of the Edinburgh Police Court has greatly diminished the number of criminal cases.

Gaol.

The Gaol of the abbey was lately rebuilt at the expense of Government, and has been legalized, both for civil and criminal purposes, by the Courts of Session and Justiciary. A person contracting debt while in the sanctuary may be sued for payment before the bailie, and imprisoned in the abbey gaol.

The number of persons imprisoned during the last ten years ought to appear from the gaol books. It is, however, stated that the record has not been regularly kept, so that the number during four of these years cannot be given. The others are as follows:

1824	3
1825	4
1826	2
1831	4
1832	1
1833	3
1834 to 31st October	6

Protections.

The Protection of the sanctuary is obtained by petition to the bailie, and is granted of course. A record is kept of the protections granted. A debtor entering the sanctuary is protected for 24 hours, which is allowed him to obtain the formal protection of the bailie; after which, unless he obtains such protection, he is liable to be apprehended. The expense of obtaining a protection is £2 2*s.*; of which the bailie receives £1 8*s.*, the clerk of court 10*s.*, and the officers 4*s.* But these fees are sometimes restricted to one-half, and in particular circumstances are not exacted.

A record is kept of the protections granted. The number of persons who have obtained the privilege of the sanctuary annually for the last ten years is as follows, distinguishing those belonging to Edinburgh and the neighbourhood, and those from other parts of the kingdom.

	Edinburgh.	Other Places.	Total.
1824	36	8	44
1825	38	12	50
1826	62	25	87
1827	47	17	64
1828	33	19	52
1829	36	17	53
1830	39	11	50
1831	32	15	47
1832	36	16	52
1833	33	21	54
	392	*161	553
1834 to 31st October	20	20	40

Boundaries.

The Boundaries of the sanctuary are very extensive, reaching beyond the precincts of the palace, and comprising the King's Park, Salisbury Crags, and the greater portion of Arthur's Seat.

Emoluments.

The Emoluments of the bailie arise from fees on protections issued, from funerals in the abbey chapel, and from fees drawn at the election of the Scotch representative Peers. On an average of the last 10 years, within which there have been four general elections, his fees have

* Of these, 21 came from England, and one from Ireland.

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been £92 *per annum*. But out of this he has to defray certain expenses, as fire and lighting to court-room, gaol, &c., there being no separate funds to meet these. The bailie complains that, in consequence of the smallness of his own emoluments, he cannot make an adequate provision for the expenses of his court.

The clerk of court also draws fees on protections and at the elections of the Peers, besides his dues as clerk of court in judicial business. On an average of 10 years, his emoluments may be averaged at £50 *per annum*.

The procurator fiscal receives a fee of £1 1*s*. at every elections of Peers, besides the emoluments of criminal prosecutions, which must be very trifling.

One person is both officer of court and gaoler. As officer, he receives about £10 10*s*., and, as gaoler, the gaol fees. The whole of his emoluments may be about £22 10*s*. *per annum*.

PORTSBURGH.

The lands on which Portsburgh is erected appear at one time to have formed portions of the barony of Innerleith, and the lordship of Dalry, Pocketsliev, and Bristo, which in the close of the 16th and beginning of the 17th centuries belonged to a family of the name of Touris. What is now known as Easter Portsburgh was then described as the east and west crofts of Bristo, otherwise Potterrow; and Wester Portsburgh comprehended the lands of Hieriggs, Dundryan, Tollcross, Evanside, *alias* Pocketsliev, &c.

Their first separation from the barony of Innerleith may be traced to a conveyance granted by Touris of Innerleith to Hepburn of Humbie; and the latter afterwards, in the year 1648, transferred his right to the magistrates and council of Edinburgh.

By a Crown charter, dated 4th April 1649, the lands of Hieriggs, Dundryan, and Tollcross, Elvansyde, *alias* Polcatslieve, and the lands called Easter and Wester Crofts of Bristo, *alias* Potterrow, all at that time parts of the barony of Inverleith, were (with the exception of certain tenements of land therein specified) of new erected into one whole and free burgh of barony, to be called the Burgh of Barony of Portsburgh. The charter contains the usual clauses, empowering the magistrates and council to appoint bailies, clerks, officers, serjeants, and other officers—a power which has been constantly exercised, by the appointment of one of their number as baron bailie of Easter and Wester Portsburgh, besides two resident bailies. In addition the charter contains a special privilege, exempting the inhabitants of the burgh from the jurisdiction of the sheriff of Edinburgh.

The burgh of barony of Portsburgh comprehends, as already indicated, two districts; namely, Easter and Wester Portsburgh, which are discontiguous.

Answers by Alexander Callender, clerk of Portsburgh.

Easter Portsburgh lies wholly to the east of Bristo-street, and has been described as comprehending "the east side of Bristo-street, from Bristo-port southward, Potterrow, Lothian and South College-streets, Drummond-street to opposite to Adam-street, and Nicolson-street to nearly the entry to the York Hotel on the west, and to the Surgeons' Hall on the east."

Wester Portsburgh again lies wholly to the west of Wharton-lane and the Vennel, and has been described as comprehending "the main street of Wester Portsburgh, on both sides, from the corn market and foot of the Vennel to Main Point; the whole of Laurieston, both sides, from Wharton-lane to Lochrin, including Portland-place, Cowfeeder-row, on the west, and to Burntsfield Links on the east, including Home and Leven streets."

There lies interjected between the two the whole territory lying along the southern boundary of Heriot's Work and the old city wall, comprehending the west side of Bristo-street, Park-place, Teviot-row, the Meadow Walk, the grounds of Watson's Hospital, the Lying-in-Hospital, &c.

This burgh has no corporation property, revenue, or debts. A baron bailie and two resident bailies are annually appointed, and there are a clerk and procurator fiscal. These are all officers appointed by the city of Edinburgh, in its character of baron and superior; and any expense connected with their establishment is in like manner defrayed by the city, with this exception, that there is annually paid to the resident bailie in Easter Portsburgh and to the resident bailie in Wester Portsburgh £30 each out of the general police funds, as an allowance in lieu of what was formerly derived from the sales of dung and fuilzie collected within their respective bounds.

There has been no jurisdiction exercised of late years within the Portsburghs, either by the baron or resident bailies. Formerly courts were occasionally held for recovery of debts under 40*s*., and for deciding summary complaints for thefts, breaches of the peace, &c. But for a number of years past the former have been taken to the small-debt courts of the county, and the latter to the police court.

There is no gaol or other place of confinement for either civil debtors or criminals within this district. There was formerly a small gaol or lock-up house, but it was pulled down some years ago to make way for the erection of a corn market.

The general Police Act extends over both Easter and Wester Portsburgh. The expense of paving the streets is defrayed by the road trustees of the middle district of the county.

There are no burgesses and guild-brethren in Portsburgh, but there are *eight* incorporated trades deriving their rights from John Touris, of Inverleith, who granted charters to them of the following dates:

1. Hammermen, charters 5th June 1582 and 24th April 1586.
2. Bakers, charter 24th May 1582, and confirmation 2nd July 1777.
3. Weavers, charter 1582.
4. Wrights and masons, charter about 1600.
5. Shoemakers of Easter Portsburgh, charter 1st May 1582.
6. Shoemakers of Wester Portsburgh, charter 5th May 1582.
7. Tailors of Easter Portsburgh, charter 1594.
8. Tailors of Wester Portsburgh, charter 24th May 1582.

The rights of these several trades have all been recognized and acted on past memory. The bakers obtained a confirmation and seal of cause from the magistrates and council of Edinburgh, dated 2nd July 1777.

We required returns to be made from these different corporations, explanatory of their various constitutions, the state of their funds, the number of their members, &c. But the returns that have been obtained are too vague and indefinite to afford the materials for any detailed report. This, however, is of the less consequence, as they appear in no respect to differ from other corporations of a similar description. Their funds are all derived from the same sources, and applied to the same ends. None of them appear to be rich, and most of them are gradually decreasing in numbers. The wrights and masons state their numbers in 1800 to have been 40, and now only 15. The shoemakers of Wester Portsburgh were 30 years ago "nearly 40;" they are now 23. The weavers "consist of only 17 members, a great proportion of whom have withdrawn themselves, and cease from contributing the small sum of 1*s. per* quarter, so that the whole trouble falls on six or eight." The hammermen have had only 15 intrants in 30 years; and, during the same period, the bakers 29; wrights and masons, 32; shoemakers of Easter Portsburgh, 10; of Wester Portsburgh, 26; tailors of Easter Portsburgh, 20; of Wester, 34. The average, even on the highest of these numbers, is not more than one *per annum*.

As to the bounds over which the exclusive privileges of these corporations extend, they are not all upon the same footing. The shoemakers and tailors of Easter Portsburgh have no privilege beyond that portion of the barony to which that denomination strictly applies. In like manner, the shoemakers and tailors of Wester Portsburgh have no privilege within Easter Portsburgh; but it would rather seem that their right to exercise their calling is not limited to Easter Portsburgh alone, but, with the above exception, reaches over the whole bounds of the ancient barony of Innerleith, including as well what remained with the family of Touris as what was conveyed by them to Hepburn of Humbie, and afterwards came to belong to the city of Edinburgh. The hammermen have two seals of cause, under one of which their privilege extends over the same bounds with the privilege of the shoemakers and tailors of Easter Portsburgh, and under the other as far as the privilege of the shoemakers and tailors of Wester Portsburgh. The bakers would be excluded by their original charter from the territory of Easter Portsburgh, but they afterwards obtained a charter of confirmation and seal of cause from the city of Edinburgh erecting them into a "corporation of bakers of Easter and Wester Portsburgh, now known by the names of Portsburgh or West Port, Potterrow, and Bristo," there being excepted from the grant only "that part of Bristo presently (in 1777) belonging to the Merchants' Maiden Hospital." The wrights and masons have lost their charter, but usage appears to have borne out their right as comprehending the entire barony of Innerleith. The weavers, who have also lost their charter, report that "they cannot exactly state the extent of their boundaries."

On the question whether it be expedient to continue or abolish this right to exclusive trade, the corporations are not agreed. The hammermen, bakers, and wrights and masons, are unfavourable to abolition, though chiefly, as it would seem, from an apprehension of injury to their funds, as the means of relief to decayed members and their widows. The shoemakers of Easter Portsburgh have unanimously resolved "that no opposition as to abrogating that part of their chartered rights and privileges of prohibiting unfreemen from working within the barony in time coming should be given by this incorporation."

The shoemakers of Wester Portsburgh state that "the exclusive privileges of the incorporation may be safely abolished—always reserving their funds, and the right of managing their own affairs; and add that "the privileges are no considerable inducement to enter, and no person would enter but for the benefit of the funds." The weavers are of the same opinion; and the tailors in both Portsburghs, though themselves disposed to think unfavourably of abolition, as calculated to injure their respective corporations, are yet "willing to make the sacrifice for the public good," their funds and other relative advantages being reserved to them.

There is one reason assigned by the masons and wrights for continuing their exclusive privileges, which appears to favour the opposite conclusion, viz., that having expended £1,500 within the last 40 years in defending their privileges, it would now be improper and unjust to take them away. Considering that the whole funds of this corporation are stated as having been 16 years ago only £100, and as being now not more than £400; that their *maximum* entry money, even in the case of strangers, is only £20; and that in the last 30 years there have, with all their exertions, been only 32 intrants, and these chiefly freemen's sons and sons-in-law, who are entitled to enter at a much lower rate—it is evident that the corporation would have been greatly richer at the present day if they had no exclusive privileges to litigate about.

It has been stated that there is a convenery of trades designated "the Convenery of Easter and Wester Portsburgh, constituted in the year 1697," and the members of which are elected by the following seven incorporated trades, viz.:

Wrights and masons.
Hammermen.
Weavers.
Bakers.
Shoemakers.
Tailors of Easter Portsburgh.
Ditto of Wester Portsburgh.

It is not stated why there is only one of the two corporations of shoemakers included in this convenery, nor whether the corporation that is included be the shoemakers of Easter or Wester Portsburgh. Neither has any evidence been produced to prove that such a body as that called

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the convenery was ever legally constituted, and there does not seem to be any good end which it could answer. It is stated, indeed, that "the object which the convenery have in view is to take united steps in any measures which may affect the common interests of the corporations; in particular, the convenery watch over the boundaries of the respective corporations, and take care that no advantage is taken by intruders in exercising any of their trades within their bounds without having any lawful right thereto." But there seems to be nothing here rendering either expedient or necessary the distinct constitution of an aggregate corporation.

The convenery, such as it is, has no funds, the several corporations contributing equally to defray the necessary expenses.

The office-bearers of the convenery are said to be "a convener, treasurer, and clerk, who are in office for one year." These officers are chosen thus: each corporation sends up four persons (the deacon, treasurer, assistant, and key-keeper) to represent them in a convener court, held annually on Beltan, *i. e.* 1st May, and at this meeting the election is carried by the majority of votes.

The inhabitants of the Portsburghs have objected to their being united in one community with the city, but they have done so only from an apprehension of the union "bringing along with it additional burdens," and of the inhabitants being involved in liability for the existing debts of the city. But for this they admit, that "in so far as the city is provided with an unattachable common good, with chambers and offices necessary for the accommodation of the numerous functionaries connected with its civil government, with market places, with gaols, with an infirmary and its kindred establishments, with endowed hospitals for the reception of citizens in decayed circumstances or for the education of their children, with open grounds for the recreation of the inhabitants, with a University and other literary and scientific institutions, and with churches and public schools, it seems but reasonable that the suburbs, when brought into union with it, should bear a share of the common burdens in proportion to the advantages they derive from participating in the common stock of the city."

On the other hand, supposing an union with the city not to take place, no one seems to recommend that the local magistracy, &c., of the Portsburghs should remain in their present state of subordination to the city as its superior; while those who point at a more thorough separation than now exists, by vesting the inhabitants with a right to choose an independent magistracy for themselves, have failed to explain how this is to be effected without doing violence to the existing feudal relation between Portsburgh and the city, or in what manner the funds necessary for the support of a separate establishment are to be raised without occasioning burdens and taxations not less heavy in all probability than are apprehended from an union, while they do not seem at all to have considered the evils which would necesarily be attendant on a collision of interests, authority, and jurisdictions, between two communities so near to each other, and so entirely identical in character as branches of the same general mass of town population, that the introduction of any permanent distinction between them could not fail to be productive of prejudice.

CALTON.

The lands of Calton formed part of the barony of Restalrig, belonging to Lord Balmerino. Lord Balmerino sold the lands to the magistrates and council of Edinburgh, and the magistrates obtained a charter from the Crown, dated 22nd June 1725, disjoining the lands of Calton (called in the charter Caldtown) from the barony and burgh of barony of Restalrig, and annexing them to the city of Edinburgh. This charter, however, does not erect the lands into a burgh of barony. The town council appoint each year one of their number to be bailie of Canongate and Calton, but in the latter no judicial functions are exercised by him, nor does it appear that he has right to exercise any jurisdiction.

The Bailiary of Calton "extends from the brewery a little to the eastward of the Shotts foundry at the north back of Canongate, westward along the street so called, including all the houses next the Calton Hill, and turning round and including the High Calton, passing through the archway of the Regent Bridge along Calton-street and down the street leading to Wordsworth's stables, including all the buildings on the side of that street next the hill, and down to the Greenside Well at the north-eastern extremity of the city's property of Calton Hill, from whence the boundary crosses over the hill by the wall of the Regent-terrace garden and the east end of the High School to the brewery above mentioned, all the intermediate property being included." As observed, however, in a report by the town council, "it consists of several fragments, the limits of which, since the erection of the Regent Bridge and the extension of the royalty in that quarter, it is extremely difficult to ascertain.

The only corporation connected with the Calton is that of the incorporated trades. It was constituted by a charter granted by Lord Balmerino, as superior, on 21st December 1631.

This charter does not, as is usually the case, erect each trade into a separate Corporation, but combines all into one aggregate body. It proceeds upon the narrative that certain of "my tennents, dwelling in that part of my said barony (of Restalrig) called the Craigend, lying outwith Leith Wynd Port, hes heavilie regrated and shewn to me that they are oppressit and troubled be craftsmen of diverse trades, who resorts and works within the bounds quhar my saids tennents dwelles, and makes their remaining and abod within the samen, to the great hurt and prejudice of my saids tennents dwelling within the bounds above specifeit; for the remeid whereof they have humblie petitioned me to suffer and licentiat to exact and collect of *every new intrant or tradesman, of whatsomever calling and vocatioun he be of*, before he be admitted to work in any part of the bounds above written, the sum of £6 Scots, to be put in an box, and keiped thereintill for the help and supplie of the poor and decayed persones within the saids bounds, and otherwayes employed to such other good uses as shall be found most meitt and expedient, and that at my sight, or the sight of the baillyie of my said barony present and to come;" and therefore, "finding the foresaid petition most reasonable and nowayes prejudiciall to any person," the charter gives and grants full power, liberty, and permission accordingly.

The affairs of the Corporation have ever since been conducted under regulations, from time to

time, (e. g. in 1727, 1769, 1801, 1813, and 1821,) enacted by its members, and approved and confirmed by the superior. The existing regulations, which repeal all former ones, were passed by the Corporation in 1831, and were sanctioned and confirmed by the magistrates and council of Edinburgh, by act of council, on 13th September of the same year.

The effect of the regulations having been substantially to reduce the Corporation to the character of a friendly society, it would be of no use to enter into any detailed statement in regard to them.

The only regulation which seems to have any proper bearing on the present subject of Municipal Inquiry is the following: "that it shall not be lawful for any persons whatever to occupy or use any craft, employment, or retailing within the barony of Calton, or its pertinents, unless they become freemen of the incorporation, or obtain liberty to do so by paying such a fine or compensation as the managers may fix, in terms of the seal of cause, and immemorial usage; and for preventing any encroachments on the rights of the incorporation, there shall be two assessors appointed from the managers to assess unfreemen, either annually, or otherwise, as the nature of the encroachment may require, with power to them to summon them before the baron bailie, or any other competent court, when necessary, to enforce payment, or to compel them to desist from their craft, employment, or retailing within the limits of the barony."

Seeing, that from the character and purpose of the Corporate fund, it is elsewhere found necessary to enact, that "in no case can an individual be received who is not of a sound and healthy constitution;" and that, therefore, the petition for admission "shall be accompanied by a certificate of the state of the applicant's health from the petitioner's ordinary medical attendant," &c., it is obvious that the above regulation, as a regulation affecting the right to "use any craft, employment, or retailing" within the limits of the Corporation, might lead to oppressive and arbitrary results; for a person willing to enter with the Corporation, with a view to set up in trade, may be refused admission on grounds nowise connected with any interests of the Corporation as a mercantile or trading community, and yet be prevented from exercising his calling unless he submit to a fine, it may be capriciously imposed, and directed to the increase of a fund, in the benefits arising from which he is allowed no participation.

The Corporation seems to have felt the force of the objection which might have been taken to this branch of their constitution, and accordingly it has been stated to us, that they "have been for a long time by no means rigorous in enforcing their exclusive privileges. There has been no prosecution for seven or eight years past; and it is doubtful whether, unless under peculiar circumstances, the Corporation would now authorize a prosecution against an unfreeman." Indeed, the whole character of this Corporation has now become so much estranged from any purpose to which the assertion of exclusive privileges could properly be directed, that as, on the one hand, it is confessed that these privileges do not at present afford any considerable inducement to enter with the Corporation, so, on the other, "it is believed that the members of the Corporation, generally speaking, would willingly surrender the exclusive privilege of trade, their existence as a Corporation, and all their funds and property, being secured to them."

The whole of the bailiary is comprehended within the bounds of police, under the general statute for the city and suburbs.

SECTION VIII.

Junction of Districts.

The boundaries of the ancient royalty of Edinburgh were extremely irregular, and the enlargement of it by successive statutes, instead of curing, increased the irregularity. Within the extended royalty, and in some instances almost in its centre, there are numerous streets, squares, and gardens, such as St. James's Square and some adjoining streets, the Regent and Royal Terraces, Queen-street Gardens, &c., which form portions of the parishes of St. Cuthbert and South Leith, and to which the jurisdiction of the burgh does not reach. On all sides the royalty is surrounded by extensive suburbs or districts, which are popularly regarded as parts of Edinburgh, and undistinguished in aspect from the city, strictly so called, several of which, as has been noticed, are under peculiar and dependent jurisdictions, while the rest are under the jurisdiction of the magistrates of the county alone.

Those considerations of obvious expediency which led to the successive extensions of the royalty, have in other respects tended to produce, and to a certain extent have produced, an union or community of rights and burdens, between the city and several or all of the districts above enumerated. Thus the cess and impost of Edinburgh are borne not only by the royalty, but by the districts of Canongate, Calton, and Portsburgh; and the cess even reaches over other parts of the surrounding territory. The burden and benefit of the police establishment of Edinburgh are common to the inhabitants of a great portion of the contiguous districts. What is termed the improvement tax is not confined to the royalty alone. And lately the common right of electing representatives to Parliament has been conferred on the inhabitants legally qualified not only of the city, but of the subordinate burghs and suburbs, and a portion of the adjacent territory, which the probable increase of population may cover with buildings. The boundaries of this, which may be termed the parliamentary burgh of Edinburgh, are clear and well defined by the late statute of 2 and 3 Will. IV. cap. 65.

After such advances have been made towards an inter-communication of burdens, rights, and interests, it seems very desirable to render the union more complete by combining the whole inhabitants within the parliamentary limits into one political community or Corporation, and for that purpose to place them under the same magistracy, and abolish all the peculiar or local jurisdictions. From such an union, it may be reasonably expected that a more simple and efficient scheme of burgh magistracy will be obtained,—that the concentration of the various local establishments will diminish expense, and give additional vigour to the system,—that the

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judicial and police establishments will be improved,—and that the hazard of uncertainty and disputes concerning the limits of jurisdictions will be obviated.

The chief impediments which stand in the way of a measure of such general utility appear to arise either from the existence of the heavy debts now pressing on the property and ordinary revenues of the city, or from the inequality of the existing burdens in the districts proposed to be united.

With respect to the former, we apprehend that wherever these liabilities may be ultimately found to rest, or to whatever extent they may now exist, there would be neither justice nor necessity in disturbing or embarrassing the arrangements for a general union by any transfer or diffusion of them over the extended districts.

With regard to the inequality of existing burdens, we have ventured to recommend that the annuity, which forms the chief obstacle, should cease to be levied as a peculiar tax for the clergy. If the church establishment of the city be extended to embrace the whole town, the burdens connected with it will of course be equalized and lightened. If that measure be found impracticable, we have recommended, after the maturest deliberation, and with a strong feeling for the welfare of the establishment, that the number of the city clergy should be reduced by uncollegiating the double charges. The proportion of tax necessary for their support will be somewhat further diminished by the abolition of the privileges of the exempted bodies.

Some measure for alleviating the grievous pressure upon the ancient and extended royalty is obviously necessary, not merely to allay a popular discontent, but because there is reason to apprehend a progressive depreciation of the rental of the royalties from a gradual but sensible tendency on the part of the inhabitants to remove to the suburban untaxed districts; and it may thus become, at no very distant period, impossible to support the clergy, even by the present rate of taxation.

If, however, the difficulties which beset this subject, and which are undoubtedly much increased by the conflicting views of the persons who take a lead on either side, shall be found to be insuperable, and to prevent the full and complete amalgamation of the interests of the whole community of Edinburgh, it only remains for us to recommend that the junction of the separate districts included within the parliamentary limits of the burgh should nevertheless take place as to municipal government and jurisdiction, and as to the burdens which it may be necessary in future to impose for purely municipal expenses, leaving them in their present state as to existing taxes, burdens, and immunities.

The following Documents accompany this Report, viz.:

1. Answers by the City Clerks to certain parts of Heads of Inquiry issued by the Commissioners, consisting of four papers.
2. Abstract View of the Revenue and Expenditure of the City for Ten Months, from 13th November 1833 to 13th September 1834.
3. Answers for Patrick Irvine, W.S., to Petition for the Magistrates, with an Appendix containing Statements of the Affairs of the City at September 1833 and November 1834.
4—6. Abstract Statements relative to the Affairs of the City of Edinburgh for the years ending 1831, 1832, and 1833.
7. Evidence of R. Johnstone, Treasurer of the Trinity College Hospital, 6th June 1834.
8. Printed Copy Statutes of Trinity College Hospital, &c.
9. Printed Copy Act of the Governors of Trinity College Hospital, containing the Statutes of the Hospital, 22d August 1821.
10. Printed Copy Extracts from the Statutes of Trinity College Hospital.
11. Copy Report of Committee of Town Council in regard to Dr. Bell's Legacy, 3d Feb. 1834.
12. Declaration of James Aytoun, Esq., 28th February 1834.
13. Printed Copies of Three Reports by Committees of the Society of Writers to the Signet, regarding the Stent-masters and the Collection of the Cess, dated in 1825 and 1826.
14. Declaration of John Waugh, Treasurer to the Charity Workhouse.
15. State of Assessments, and of Sums received and outstanding, at 31st December 1833.
16. Table showing the Description and Numbers of Out-pensioners of Edinburgh Charity Workhouse for Five Years.
17. Abstract State of Income and Expenditure of Edinburgh Charity Workhouse, from 1813 to 1833.
18. Form of Petition, (Charity Workhouse,) and of Overseer's corresponding Report.
19. Contract of Agreement, the Provost, Magistrates, and Council, and Ministers, &c. of Edinburgh, for Building the Charity Workhouse, 1740.
20. Return showing the Number of Seats Let and Unlet in the City Churches, &c. 1834-35.
21. Report by R. Paterson, Surveyor of Police, upon the Rental of certain Portions of the City which do not pay Land-tax.
22. Declaration of the Rev. Dr. Lee as to Provisions for supporting the Clergy of the City, 24th January 1834.
23. Copy Memorial for the Ministers of Edinburgh to the Lord Advocate.
24. Examination of Adam Duff, Esq., Sheriff of Edinburgh.
25. Evidence of George Tait, Esq., Sheriff Substitute.
26. „ of James L'Amy, Esq., one of the City Assessors.
27. „ of John Tawse, Esq., one of Ditto.
28. „ of James Wilson, Sheriff Clerk.
29. „ of Richard Prentice.
30. „ of Archibald Scott, Procurator Fiscal for the County.
31. „ of David Turnbull, Dean of Guild Clerk.

32. Evidence of Maurice Lothian, Solicitor.
33. „ of James Balfour, Esq., of Pilrig.
34. „ of Andrew Gray, W.S.
35. Return by R. L. Dymock, Procurator Fiscal for the City, of Number of Cases decided without the Assistance of an Assessor.
36. Evidence of the Right Hon. Sir William Rae.
37. Evidence of Sir James Gibson Craig.
38—48. Printed Copies of Tables of Petty Customs leviable by the City.
49. Declaration of John Boyd, Fruiterer, Tacksman of part of the Petty Customs.
50. „ of John Sommerville, Collector of the Weigh-house Customs.
51. „ of John Drummond, Tacksman of the Poultry Market Customs.
52. „ of William Simpson, in regard to the Petty Customs.
53. Memorial for the Hotel and Tavern-keepers to the Commissioners, in regard to the Mode in which the Impost Duty on Wine is levied.
54. Statement showing the accumulated Rental of the ancient and extended Royalty of Edinburgh that is exempted from the One per Cent. Impost Assessment.
55. Memorial for the Gardeners frequenting the Edinburgh Market.
56. Printed Copy Police Act, 24th June, 1822.
57. Printed Copy Act to explain and amend Police Act, 26th May, 1826.
58. Printed Copy Act for altering and amending Police Acts, 23d June 1832.
59. Evidence of Charles Neaves, Esq., Advocate and General Commissioner of Police.
60. „ of James Richardson, General Commissioner of Police.
61. „ of Samuel Aitken.
62. „ of Captain Stuart, Superintendent of Police.
63. „ of John Thomson, Clerk of Police.
64. Statement of Fines imposed, paid and unpaid, in the Police Court, from Whitsunday 1828 to Whitsunday 1833.
65. Printed Copy Resolutions of Police Commissioners regarding the Signing of Certificates to Persons applying for Ale Licences.
66. Printed Copy Abstract of Police Roll and Assessment, 1831-32.
67. Answers by Governor of Edinburgh Gaol to Inquiries by the Commissioners, 23d October 1834.
68. Table of Fees exigible by the Clerk of Edinburgh Gaol.
69. Printed Copy Regulations for Gaol.
70. Printed Copy Regulations for Debtors in Edinburgh Gaol.
71. Printed Copy Clauses of Statute 24th Geo. II., c. 40, prohibiting the Use of Spirituous Liquors in Gaols.
72. Return by Governor of Canongate Gaol to Queries by the Commissioners, 22d October 1834.
73. Regulations for the Canongate Gaol, 3d January 1827.
74. Return by Governor of Bridewell, in Answer to Queries by the Commissioners, 18th October 1834.
75. Printed Copy Act 31 Geo. III., c. 57, for Building and Maintaining a Bridewell and Correction House in Edinburgh.
76. Abstract of the existing Rules and Regulations for the Internal Management and Economy of the Bridewell.
77. Descriptive Sketch of the Bridewell, and of the System of Management.
78. Report of Committee of Town Council relative to the Maintenance of Prisoners in Gaol, &c.
79. Evidence as to University Patronage and Schools, consisting of 32 Numbers; for a Specification of which see Index prefixed to Printed Copy in the Appendix No.VI., p. 358.
80. Letter John Gordon, Secretary to the University, to Mr. Daniel, Secretary to the Commission, 9th November 1833, and Seven relative Papers.
81. Printed Copy Edinburgh University Almanack 1833.
82. Return by Dr. A. R. Carson, Rector of the High School, and relative Paper.
83. Memorial of the Council of the Guildry to the Commissioners, January 1834, and relative Evidence.
84. Printed Copy Summons of Declarator, the Convenery against the Town Council and Heriot's Hospital, 1834.
85. Printed Copy Report by Sub-Committee of the Convenery as to their Share in the Government of Heriot's and Trinity Hospitals, and of the Opinions of Council thereon.
86. Surgeons.—Answers to Notes of Inquiry issued by the Commissioners, and Six relative Documents.
87. Goldsmiths.—Answers to Notes of Inquiry, Declaration of Deacon and Clerk, and Eighteen relative Documents.
88. Skinners and Furriers.—Answers to Notes of Inquiry.
89. Hammermen.—Answers to Notes of Inquiry, and Five relative Documents.
90. Mary's Chapel.—Answers to Notes of Inquiry, with Printed Copy Laws of Corporations.
91. Tailors.—Answers to Notes of Inquiry, and Six relative Documents.
92. Bakers.—Answers to Notes of Inquiry, and Five relative Papers.
93. Cordiners.—Answers to Notes of Inquiry.
94. Weavers.—Answers to Notes of Inquiry, and Two relative Papers.
95. Fleshers.—Answers to Notes of Inquiry, with One relative Paper.

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96. Waulkers.—Answers to Notes of Inquiry, and Five relative Papers.
97. Bonnetmakers.—Answers to Notes of Inquiry.
98. Barbers.—Answers to Notes of Inquiry, and Three relative Papers.
99. Candlemakers.—Memorial for the Corporation of.
100. Non-incorporated Trades.—Statement by a Committee of the Non-incorporated Trades of Edinburgh as to the Abuse of Corporation Privileges; with a variety of Evidence of Prosecutions.
101. Memorial for the Governors of the Merchant Maiden, and James Gillespie's Hospitals.
102. Letter Messrs. J. and W. Jollie, Clerks to the Merchant Company, to Mr. Daniel, Secretary to the Commission, dated 16th February 1835, and relative Act of Parliament.
103. Printed Copies Abstracts of Accounts of the Merchant Company, Merchant Maiden, James Gillespie's, George Watson's, and Trades Maiden Hospitals, for the year 1833-34.

CANONGATE.

104. Statement for the Magistrates of Canongate, in answer to Heads of Inquiry, Inventory, and Five relative Papers.
105. Printed Copy Memoir, with Notes and Copies of material Grants in favour of the Burgh anent Ancient Rights, &c. thereof.
106. Printed Copy Charter by the Magistrates in favour of the Inhabitants of North Leith, of the Church Lands, &c.; with Historical Notes explanatory of the same.
107. Extract Act concerning Stipend of Ministers of Canongate, 5th October 1663.
108. Abstract Account of Collector of Poor's Money, from Whitsunday 1832 to Whitsunday 1833.
109. Printed Copies of Tables of Watergate and Causeway Mail Customs.
110. List of Houses of the value of £4 and upwards.
111. Observations by certain Inhabitants in regard to Junction.
112. Answers by Henry Tod, Clerk to the Convenery of the Canongate, to Notes of Inquiry.
113. Answers for the Incorporation of Hammermen, and Four other Papers.
114. Answers for the Incorporation of Wrights, Masons, &c., and Two other Papers.
115. Answers by the Incorporation of Bakers.
116. Answers by the Incorporation of Tailors.
117. Answers by the Incorporation of Fleshers, and two other Returns.
118. Answers by the Incorporation of Weavers, and one Paper.
119. Answers by the Incorporation of Barbers, and two Papers.
120. Answers by the Bailie of Holyrood House, in Answer to Heads of Inquiry, and Four other Papers.

PORTSBURGH.

121. Answers by A. Callander, Clerk of Portsburgh, to Heads of Inquiry.
122. Answers by a Committee of Inhabitants of Portsburgh, as to Union with the City.
123. Answers by the Convenery of Portsburgh to Notes of Inquiry.
124. Hammermen of Easter and Wester.—Answers and Two Papers.
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129. Tailors of Wester.—Answers and Two Papers.
130. Tailors of Easter.—Answers and One Paper.
131. Weavers of Easter and Wester.—Answers.

CALTON.

132. Answers to Notes of Inquiry regarding the Incorporated Trades, and Five Papers.
133. Printed Copy Report of the Town Council as to Extension of Royalty.
134. Evidence of Rev. Dr. Brunton as to Annuity Tax.
135. Answers by Bailie Donaldson as to Ecclesiastical Establishments.
136. Answers by Councillor Tennent do. do.
137. Answers by Councillor Grainger do. do.
138. Evidence of Rev. John Paul.
139. Evidence of James Balfour and John Learmonth, Esqrs.
140. Evidence of Mr. Robert Paul.
141. Evidence of Rev. Patrick Clason.
142. Declaration of Thomas Brown, Overseer of Public Works.
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144. Evidence of D. Matheson, Esq., Sheriff Substitute at Leith.
145. Report by Eight Southern Districts, as to proposed Junction of these Districts with the City.
146. Remarks by Messrs. L'Amy and Tawse, on the Act for alimenting poor Prisoners, January 1834.
147. Memorandum by Mr. L'Amy as to Weights and Measures.

JOHN B. GREENSHIELDS.
THO. THOMSON.
RO. BELL.
JOHN CUNINGHAME.
J. IVORY.
ROBERT HUNTER.
C. INNES.
R. HANDYSIDE.

APPENDIX TO REPORT ON THE CITY OF EDINBURGH.

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APPENDIX No. I.—REPORT on the PRESENT and probable FUTURE STATE and CONDITION of the HARBOUR and DOCKS of LEITH.

The matters on which the Commissioners have now to report are, *first*, the nature of the right which the Corporation of Edinburgh has to the property and revenue of the harbour and docks of Leith, including a specification of that property and revenue. *Secondly*, The burdens to which that right and the trade of Leith are subjected. *Thirdly*, The present value exhibited by contrasting the amount of income with that of the expenditure and burdens; and, *fourthly*, the alleged operation of the present system, and the means by which its defects may be remedied.

Article I.—The Nature of the Right which the City of Edinburgh has to the Property and Revenue of the Harbour and Docks of Leith.

Branch 1.—*Charters.*

The right which the city of Edinburgh has to the harbour and docks of Leith, and to the revenue derived from them, is founded on a series of royal charters and statutes.

Robert I., by a charter dated on the 28th of May 1329, granted to the Corporation and community of Edinburgh the port and mills of Leith, with their appurtenances, to be held of his Majesty and his successors, with the several liberties and conveniences, as freely as they were in the time of King Alexander, his predecessor. On the 31st of May 1398, Sir Robert Logan, of Restalrig, granted to the burgesses and community of Edinburgh a right to the ways and passages on his lands close to Leith, with a power of lading and unlading ships and vessels "within the same, and on the River of Leith, and with a liberty to break up his ground for the service of navigation, and with the right of shops and granaries." And in February 1413 certain other rights were granted to them by him. James II., by a charter dated 4th November 1454, granted to Edinburgh "the haven, silver customs, and duty of ships, vessels, and merchandize coming to the road and harbour of Leith;" and James III., on the 15th November 1482, gave a charter, containing a detail of the customs, profits, exactions, commodities, and revenues of the port and road of Leith. By a grant of James IV., dated 9th March 1510, a right was conferred on the Corporation of Edinburgh to the new port, denominated Newhaven, with the lands, faculties, and privileges thereunto belonging. By a charter, bearing the same date, James IV. confirmed the charter of Logan of Restalrig, formerly recited. On the 24th of March 1596, James VI., by a letter of gift under the privy seal, empowered the Corporation of Edinburgh to levy a certain tax, during a certain period, towards erecting, supporting, and repairing the bulwark, pier, and port of Leith. 1398. 1413. 1454. 1482. 1510. 1596.

All of these grants were confirmed by a charter, technically styled of "Confirmation and *Novo damus*," made by James VI., and dated 15th May 1603. After an especial enumeration, there are confirmed all other charters, statutes, and rights in favour of the Corporation of Edinburgh, together with the aforesaid port, harbour, and road of Leith, with the lands and appurtenances thereof, with all and singular "the piers, shores, and bulwarks, with the several streets, ways, and passages leading to the said port, harbour, and river of Leith, and adjoining to the houses and buildings on both sides respectively, with all the privileges, customs, and conveniences thereunto belonging; and, in particular, all privileges, customs, harbour, dock, and shore silver, anchorage, golden pennies, exactions, rents, duties, and casualties of the said port, haven, raid (roadstead), and towns of Leith and Newhaven, according to the following Table, clauses, conditions, and privileges therein contained, which we command and ordain to be inserted in the present charter, to be observed and kept by all our subjects and strangers using the said ports of Leith and Newhaven, to be published in the said town of Leith, that none may plead ignorance." A Table is then engrossed, enumerating certain duties, on articles both 1603.

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of necessity and luxury, the amounts of which are lower to freemen than unfreemen. The Corporation are empowered "by themselves, their treasurers, collectors, or farmers, in all time coming, to take and receive the shore-money, exactions, duties, and customs hereafter specified (of which they are in present possession) of all goods and merchandize appertaining to freemen, unfreemen, and strangers, and of all ships, crears, or boats arriving in the port of Leith, to be employed in building, enlarging, strengthening and upholding the said port and pier of Leith." An enumeration of the duties is then given. All subjects and strangers are enjoined "to make thankful payment" to the Corporation, their "factors, collectors, farmers, and toll-gatherers," of the duties and customs recited, "under the several pains and penalties that may thereafter follow."

Powers are likewise given to enlarge and extend the said port, pier, shore, and haven of Leith, towards the sea, with the bulwarks on both sides of the river, and to build, strengthen, and fortify the same in a substantial manner, both for duration and the safety of ships, crears, and other vessels, with their goods and merchandize, arriving in the said port, both in peace and war. The right to Newhaven, and to the duties and customs, is confirmed; and powers are granted to repair and enlarge the pier and bulwark.

1636. Charles I., on the 23rd of October 1636, granted another charter of confirmation and *novo damus*, the clauses of which it would be superfluous to recite, as they are substantially the same, with relation to Leith, as those already detailed.

Gift of Merk per Ton. On the 17th of May 1636 Charles I. made "a Gift to the provost, baillies, council and communitie of the burgh of Edr and their successors, of ane custome of threttein shilling four pennies Scots, in all tyme hereafter, of each Tun and Pack of goods imported to Scotland be anie merchant, burgesse, and inhabitant of the said burgh of Edr, and by whatsomever other persons, natives or strangers, als wells inhabitants as not inhabitants of the said burgh, furth of whatsomever cuntries without the bounds of Scotland, imported and inbroght either by sea or by land in and to the said burgh of Edinburgh, towns of Leith and Newheaven, or any parte of the liberties of the same, to be applyed to the effect forsaid, with power to the saids magistrats of Edr and their successours, chamberlands, servitors in thair names, to vplift and exact the said custome, and comanding the Lords of his Mäties Councill and Session to direct lẽrs of horneing and poinding at their instance, for causeing them and their thesaurers be thankfully paid thairof in due form as effeirs."*

The Acts of the Parliament of Scotland, vol. vii. pp. 83-4. 1661. This gift is ratified by a statute passed in the reign of Charles II., dated 22nd March 1661. The statute recites the gift, but it makes an important alteration upon its nature, by appropriating "the haill benefit" towards the maintenance of the clergy of Edinburgh. The details relative to this appropriation will be given under the account of the burdens to which the shore and harbour dues are subjected.

Branch 2.—Statutes, and their inductive Causes.

No other statute appears to have been obtained until the year 1788, after which there is a long series, viz., 28 Geo. III. c. 58; 38 Geo. III. c. 19; 39 Geo III. c. 44; 39 & 40 Geo. III. c. 57; 45 Geo. III. c. 32; 45 Geo. III. c. 114; 47 Geo. III. session 2nd, c. 3; 53 Geo. III. c. 33; 6 Geo. IV. c. 103; 7 Geo. IV. c. 105.

The objects of these Acts were, *first*, to empower the Corporation of Edinburgh to enlarge and improve the harbour and docks, and to purchase property for that purpose. *Secondly*, To regulate the existing rates and duties, and to give powers to make additions in number and amount. *Thirdly*, To give authority to borrow money, and to grant security; and, *fourthly*, to vest the management in certain Parliamentary Commissioners, while the right to the revenue, and the subjection to the consequent burdens, continued with the Corporation.

Corporation empowered to enlarge and improve Harbour and Docks, and to purchase property for that purpose. I.—The preamble of the 28th Geo. III. c. 58 (1780), sets forth that the Port and Harbour of Leith, belonging to the city of Edinburgh, having become unsuitable, by reason of the great increase of navigation, it was necessary that powers for Enlarging and Improving it should be conferred on the Corporation. The object then contemplated was, to construct new Docks and Quays on certain lands (Hillhouse-field) in the immediate neighbourhood. In consequence, power was given to purchase 21 acres of these lands. This plan having afterwards been abandoned, it is needless to detail the machinery by means of which the objects were to be effected. But under the authority of this statute the present upper drawbridge was constructed, and the street leading from the north end of it to the Queensferry road was opened, the present Dock Commissioners having power to uphold that bridge.

13th June 1799. The 39 Geo. III. c. 44, empowers the Corporation to make wet docks, piers, quays, and dry docks, extending from the present harbour of Leith westward, along the shore to Newhaven; to construct a drawbridge opposite St. Bernard-street, and a stone bridge below Leith Mills, and to open a road from the foot of Leith Walk, along the stone bridge, to the docks. These last-mentioned works were not executed under that statute, but under the subsequent Act, 47 Geo. III.

25th July 1807. By the 47 Geo. III. section 2nd, c. 3, the Corporation of Edinburgh are again authorized to construct a drawbridge opposite to St. Bernard-street; to open a street of 60 feet wide from the west end of that bridge, along the south front of the warehouses erected, or to be erected, on the land side of the wet docks; to connect that new street with the streets or roads already made, or to be made, within that part of North Leith called the Citadel, and on the lands of Hillhouse-field, and with the streets or roads leading to or from Leith Fort. All of these plans have been executed, and the warehouses have been built upon ground originally belonging to the Corporation of Edinburgh. The stone bridge formerly mentioned has also been built by the Corporation. In terms of 7 Geo. IV. c. 105, Commissioners are to superintend and direct the execution of certain works for the extension of the eastern pier, to be made in terms of an agreement between the Corporation and certain officers of his Majesty's navy. These works have been executed. The Commissioners are also empowered to extend the harbour, to the eastward of the pier, by forming timber basins. One such basin has been formed. There are also powers given to widen certain streets, which have not been carried into execution.

* The account of the "Gift" given in the text is taken from the statute afterwards mentioned; but it has been compared with the gift itself, and found to be substantially the same.

EDINBURGH. (*App. Leith Harbour, &c.*)

These statutes contain the powers for procuring materials, acquiring property, and completing titles usual in Harbour Acts, and authority to regulate the existing rates and duties, and to make additions in number and amount.

Regulation of the existing Rates, and Powers to make additions in number and amount.

II.—By the 28th Geo. III., c. 58, sect. 25, it is set forth that the corporation of Edinburgh have an undoubted right to levy "from every freeman for each ton of goods, either imported into Leith or Newhaven, or exported on his own account or risk, 3½*d.* sterling of shore dues; but, if on account and risk of any other person, 6⅔*d.* sterling of shore duties; and for each ton of goods not of the growth of Scotland brought coastwise from any other port in Scotland, 6⅔*d.* sterling of shore dues; and the like sum of 6⅔*d.* sterling of shore dues from every unfreeman in every case for each ton of goods either exported or imported; and for each ton of goods not of the growth of Scotland, either imported or brought coastwise, an additional duty of 1*s.* 1½*d*, or one merk Scots *per* ton, whether the person exporting or importing be a freeman or not a freeman; and for logs of timber thrown out of ships in the harbour, or floated from the road of Leith, or from the coast of Fife, or from any other place, the same fees and duties as for goods brought coastwise; and also one merk *per* pack of the aforesaid goods brought by land carriage to the city of Edinburgh and its liberties, Leith, or Newhaven." Power is given to make tables of rates, to make exemptions of certain articles, to give equitable and impartial abatements, and to regulate and publish tables of collection from time to time. Goods imported in general ships are to be rated at 3*d.* sterling *per* barrel bulk or 2*s. per* ton, of which the Corporation are to receive 1*s.* 7*d.* of shore dues, including the merk *per* ton as aforesaid, and 5*d.* for rowage, bulkage, and prime gilt, which last sum is paid to the collector for the Trinity House of Leith, and other persons concerned. Ballast is to be purchased from the shoremaster, and the Corporation of Edinburgh are empowered to license pilots after examination by the Trinity House of Leith, and to exact fees "for the use of the said licensed pilots."

Sections 25 and 26.

Section 29.

Section 31.

The Corporation are empowered to levy, "in name of beaconage and anchorage, for all drag-boats, fish-boats, or yawls, each time they come in with fish or oysters, the fish-boat 3*d.* and yawl 2*d.*, both sterling; for every passage-boat, ferry-boat, or pinnace, 2*d.* sterling; and for all vessels, whether ships, barks, or boats, (other than drag-boats, fish-boats, yawls, ferry-boats, and pinnaces before specified,) 1½*d.* sterling for each ton of their burden." Powers are granted to appoint a collector, and summarily to enforce payment of the rates.

Section 34.

Sections 35 and 36.

Details of the powers under the 38 Geo. III., c. 19, would be needless, as the more important provisions were superseded.

The 39th Geo. III., c. 44, on the narrative that improvements were to be made, gives a power to levy, "over and above all rates and duties at present paid at the harbour of Leith, the several rates and duties hereinafter specified, agreeably to the burthen and tonnage ascertained by their respective registers." A table is engrossed imposing duties upon British and foreign ships, regulated principally according to the distance of the port. The rates are 3*d.*, 6*d.*, 8*d.*, 10*d.*, 1*s.*, 1*s.* 3*d.*, and 1*s.* 6*d. per* ton; but on vessels in ballast coming into the dock 6*d. per* ton, and 2*d. per* ton for each month after three months (except whale vessels), in name of lyage dues; one-half more of these rates imposed on foreign vessels. And there are certain modifications founded on time, not breaking bulk, and local trade. No ship or vessel shall be subjected in payment of these rates for more than eight voyages in any one year. The rates are deemed port charges, and paid according to the usual proportion by the master or owner of the vessels, and by the merchant, freighter, or consignee.

1799.

Section 23.

Section 24.

Section 28.

In the event of the funds becoming deficient for the purposes of the Act, the Corporation are empowered to levy, along with the rates and duties before specified, one-third more; and to continue to do so as long as there shall be a deficiency.

Section 34.

In consequence of further improvements, powers to levy additional tonnage-duties, and to raise the rates, are conferred by the 47th Geo. III., sess. 2d., c. 3. On the preamble, that a pontage on the drawbridges would be injurious, powers are conferred on the Corporation to levy, along with shore-dues, "the sum of one penny sterling upon every ton of goods, of every description, imported into the port of Leith, over and above all and every duty at present exigible by law, to be applied in manner hereinafter directed." And in the event of this tonnage-duty not amounting to 7½*d. per cent.* of the whole moneys expended for the purposes of the Act, the Corporation are empowered to levy one-half more, to continue until the emergence of a certain event, afterwards set forth. These additional duties are to be applied to upholding and managing the drawbridges, and are to terminate when they and the revenue derived from areas purchased by the Corporation shall (after defraying the expense of repairs and management) be equal to the repayment of the capital sum expended for the purposes of the statute.

1807.

Section 25.

Section 26.

Section 38.

Authority is given to levy, for the use of the dry docks, the rates and duties set forth under schedule A. This schedule is constructed on the principle of combining the tonnage of the vessel with the number of times during which the docks shall be used; the lowest sum payable is £1 16*s.*, and the highest is £208.

Section 29.

Powers are given to erect sheds, and to levy shed-duties, which are regulated on the principle of time, and barrel bulk or weight; 2*d.* for each space of 48 hours being payable for each ton of eight barrel bulk, or each ton of 20 cwt.

These duties are primarily to be applied towards upholding and managing the docks, dry docks, and sheds; and the residue is to be employed for the purposes of the Act 39 Geo. III., c. 44.

Section 30.

Certain modifications are made upon the dock-duties; but it is important to observe, that an additional duty has been imposed on vessels entering or re-entering the dock from the harbour. This duty is to afford compensation for the trouble of opening and shutting the dock gates, and to operate as a check upon such transits as were found to be inconvenient.

Sections 32 and 33.

Section 36.

In the 7th Geo. IV., c. 105, there is a special provision relative to the duty on the ton and pack of goods, usually called the merk *per* ton. The details will be given under the examination of that imposition.

Section 31.

III. Powers to borrow Money, and to grant Securities, are conferred on the Corporation of Edinburgh by the several statutes. These powers have been carried into execution; but the details will more properly be given under the article which embodies the burdens to which the property and revenue are subjected.

Powers to borrow Money, and grant Security.

EDINBURGH.
(App. Leith Harbour, &c.)

Powers and Duties of Dock Commissioners.

IV. Previously to 26th May, 1826, the management of the harbour and docks, as well as the right to the revenue, was vested in the Corporation of Edinburgh. In consequence of numerous disputes with shipowners and merchants, and of large loans made by Government, as well as for the purpose of making further improvements, and adopting a more effective system of management, the direction was then vested in statutory commissioners. But, as formerly mentioned, the right to the revenue was, under the burdens specified, continued in the municipal Corporation of Edinburgh, as being the proprietors. There was much controversy before the statutory provisions could be adjusted; but, although insisted on by some of the persons examined by the Commissioners, the details of that controversy do not appear to involve matter which can now be deemed practically important.

The preamble sets forth the advances made by Government, certain obligations for further improvements, under which the Corporation had come, and the expediency of freeing from certain burdens certain portions of shore ground belonging to the Corporation, and contiguous to the harbour and docks.

The first enacting clause declares, that the Corporation shall continue to levy all the shore and harbour and all the dock and other duties, which they were entitled to levy under the preceding statutes.

A detailed statement of the constitution of the commission, the mode of election of the commissioners, and of the special regulations for their government, would be superfluous. It is sufficient to state, that the commissioners are elected by the Corporation of Edinburgh, and by several commercial bodies in Edinburgh and Leith, with whom are conjoined three persons nominated by the Lords of the Admiralty.

Section 17. After provisions regulating meetings, and other details, the powers and duties of the commissioners are declared to be "to take the general superintendence, care, and management of the said harbour and docks at Leith, and works connected therewith, and to direct all matters in regard to the maintenance, repair, cleansing, and improvement of the same, as fully and to the same extent as the said lord provost, magistrates, and council of the city of Edinburgh, and their predecessors and authors were empowered to do, by virtue of their charters and title deeds, or by virtue of the said recited Acts, or any other."

Section 19. The commissioners are empowered to appoint a manager and superintendent of the harbour and docks, and other officers and servants, with the approbation of the Corporation of Edinburgh, by whom also the salaries shall be sanctioned. But the commissioners have the entire control of their officers and servants, with power to suspend and remove at pleasure. The clerk and revenue officers are, however, to be appointed by the Corporation of Edinburgh.

Section 33. After conferring power upon them to make bye-laws, the Act provides, 1st., That the commissioners shall have the control of ballasting; and, 2d., That they shall direct the ordinary improvements, alterations, repairs, or works, for which they shall be allowed £2,000 a year; but that, where that sum is to be exceeded, the matter shall be subject to the sanction and approbation of the Corporation of Edinburgh.

Section 24. The expense of cleansing the harbour and docks, and of purchasing and maintaining the requisite machinery, is to be apportioned between the dock duties and harbour duties, according to adjustments made by the commissioners, and approved of by the Corporation.

Among the improvements contemplated, and set forth in the preamble, are the extension of the eastern pier, and the erection of certain works connected with it. An agreement to that effect had been entered into betwixt the Corporation of Edinburgh and certain naval functionaries. The dock and harbour commissioners are to superintend the execution of those works, for defraying the expense Sections 25 and 26. of which the Corporation are to advance £28,000. If that sum prove insufficient, the remainder is to be raised on the credit of the dock duties. That pier, when completed, and also one on the western Section 32. side, erected for the use of the royal navy, are to be kept in repair out of the shore and harbour duties; and power is given to the commissioners to extend the eastern pier.

Branch 3.—Mode of levying Duties.

There are peculiarities in the modes of levying the duties above mentioned, and also certain impositions not hitherto noticed, upon which observations are necessary.

Tonnage. The Tonnage duty levied on vessels, and the duty on goods, are levied according to tables. In the table of shore dues at present in use there are enumerated many articles of necessity and luxury, the duties on which are, with relation to different articles, regulated on different principles. Were the terms of the charters and statutes to be strictly followed, those duties ought, in all cases, to be levied according to weight—for the ton is the standard adopted; but custom has introduced, and was deemed by the leviers of the duty to have sanctioned, many deviations from that rule. These deviations form, at present, the subject of a suit before the Court of Session. Value is not taken into consideration, although on some coarse goods the dues have been a little modified, in order to make them lower than on goods of more value. In many cases the dues are exacted according to bulk, so that where the goods are very bulky they occasionally amount to three times what would be leviable on the actual weight. In estimating bulk, the practical rule is understood to be to calculate 2½ tons as equal to eight barrel bulk. Abatements have been given on some very coarse and low-valued goods. According to the present practice cattle are charged by number, and not by weight.

Shore Dues. The Shore Dues are levied according to the tables payable in Scotch money, which occasions inconvenience by the necessity of converting it into sterling money. In order to remedy that inconvenience the Act 7 Geo. IV., c. 105, sect. 45, authorizes and requires the Corporation of Edinburgh to apply to the sheriff of the county of Edinburgh "to summon a jury for the purpose of reducing into British sterling money, and to the standard of the imperial weights and measures, all the several duties now payable under authority of the said recited Acts, and to frame tables accordingly;" under the declaration that the Corporation shall not be deprived of the power of making abatements. But this important provision has not hitherto been carried into execution.

In the charters mention is made of anchorage, in combination with custom, exaction, and similar terms of wide import; under cover of these general terms other duties have been introduced, as beaconage, berthage, pilotage, and flagage.

Anchorage and Beaconage. Anchorage and Beaconage dues are included under shore dues, and regulated on the same principle.

Berthage. Berthage dues consist of payments on all vessels coming into the harbour, viz., from a passage-boat,

which pays 2*d.* unloaded, and 1*s.* when loaded with goods, to a vessel of 70 tons and upwards, which, and likewise all foreign vessels, pay 5*s.*

Pilotage dues are leviable in proportion to the draught of water of the vessel, from 5*s.* 10*d.* for a vessel drawing seven feet, to 19*s.* 6*d.* for one drawing 13, besides 2*s.* to the master, and 1*s.* to each of the boatmen for each day's attendance. Vessels belonging to the port of Leith pay no pilotage if they do not employ a pilot. (*App. Leith Harbour, &c.*)

Flagage, or light dues, is paid by all foreign vessels, and all vessels above 40 tons. Each vessel pays 2*s.* 6*d.* Flagage.

Previously to the year 1750 the duties on anchorage and beaconage appear to have been about one-half of the existing rate to freemen, and the same to unfreemen as at present. A beacon having been erected about that time, the duties were raised to the higher rate on shipowners of all classes.

Berthage is not expressly mentioned in any of the charters, and it is understood to have originated in a fee given to the harbour-master for the purpose of securing a good berth. Afterwards, by virtue of the undefined phraseology of the charters, it was converted by the Corporation into a permanent duty.

Flagage seems to have been introduced about the same time as beaconage; originally it was a fee paid to the officer who puts up the signals at the end of the pier, denoting the depth of water in the harbour. The conversion of it into a permanent duty arose from the same cause as in the other instances. 1750.

Pilotage is levied under the authority of 28 Geo. III., c. 58, as was shewn when the clauses of that Act were recited. The Act expressly provides that it shall be levied for the use of pilots; but, until within the last few months, the Corporation had been in the practice of paying only one-half, the other having been merged in the general revenue of the city of Edinburgh. The gross produce on an average for five years was £1,466, of which on an average the sum of £1,220 was paid to pilots. The expense of collection amounted to £154; there was therefore drawn by the Corporation a net annual revenue of £190. This surplus has recently likewise been given up by the Corporation, and consequently the amount of pilotage is now limited to the fees actually drawn by the pilots.

There is also a small tax called "gold penny" levied on every ship built within the precincts of the port of Leith, which is understood to be applied towards upholding drawbridges. Gold Penny.

There are at present in dependence before the Court of Session actions at the instance of the shipowners' society at Leith against the Corporation of Edinburgh, and *vice versa*, the objects of which are, *first*, to regulate the tables of rates; *second*, to limit the pilotage to the fees actually drawn, which matter, as already stated, has been conceded; and, *thirdly*, for the abolition of the duties of berthage and flagage, or the limitation of them to the amounts actually paid.

Branch 4.—*Revenue arising from Real Property.*

Independently of the Revenue derived from the duties already stated, the Corporation of Edinburgh receive a large return from Real Property connected with the docks and harbour. It consists of feus, areas for building, warehouses, yards, and similar subjects.

ARTICLE II.—BURDENS TO WHICH THE RIGHT OF PROPERTY OF THE CORPORATION OF EDINBURGH AND THE TRADE OF LEITH ARE SUBJECTED.

The docks and harbour of Leith, and revenue thence arising, are liable at present to the burden of a debt so heavy as to leave it doubtful whether the Corporation of Edinburgh have any available interest in the property. The tax levied at the port for the use of the clergy of Edinburgh may also be stated as indirectly affecting the revenues derived from them to the Corporation.

Branch 1.—*Debt to Government.*

In the different statutes for the improvement of the docks and harbour, there are conferred upon the Corporation of Edinburgh powers to borrow money and to grant securities. These powers have been carried into execution through the instrumentality partly of these statutes, and partly of others not hitherto mentioned, but the leading provisions of which shall now be stated.

By the 28th Geo. III., c. 58, power was given to borrow £30,000. But, as formerly mentioned, the plans contemplated by that Act not having been executed, that loan was not effected. Section 22.

The 38th Geo. III., c. 19, conferred power to borrow £40,000; but that power was taken away by the Act 39th Geo. III., c. 44, which authorized £80,000 to be borrowed, and bonds to be granted. Sections 17 to 22.

The 45th Geo. III., c. 32, on a recital that the sums formerly borrowed were insufficient, authorized the Corporation to borrow other £80,000, and rendered liable to that additional sum all the regulations and powers contained in the 39th Geo. III., c. 19, relative to the £80,000 to be borrowed under the authority of that Act. 17th May 1785. Section 2.

On the preamble of the preceding Acts, and that more moneys were required to complete the harbour and docks, the Lords of the Treasury were authorized, by the 45th Geo. III., c. 114, to advance £25,000 to the Corporation of Edinburgh, upon an assignment to the Barons of the Exchequer in Scotland of the rates of the harbour and docks, "and all the estate, right, title, and interest of the said Lord Provost, Magistrates, and Council, and their successors in office, in and to the same; and all quays, houses, lands, or other property purchased for the purposes of the said harbour, basins, docks, and other works." The rate of interest was to be three *per cent.*, payable half-yearly. Section 2.

In 1813, the Corporation obtained a statute authorizing them to borrow the further sum of £80,000, which they effected; this increased their bond debts to individuals to £240,000, which, with the £25,000 due to Government, made their whole debt amount to £265,000. 53 Geo. III. c. 53.

The proceeds of the dock dues, rents, and feu duties, were not sufficient to defray the expense of repairs and management, and to pay the interest of the debt due upon them. From 1819 to 1825, there was a deficiency in the dock revenue of about £6,000 *per annum*, to be supplied from the city's proper revenue. Report Committee House of Commons on Leith Dock Bills, 1825, pp. 6, 48.

In 1825, the Corporation endeavoured to transfer the docks to a Joint Stock Company, and a Bill was brought into Parliament for that purpose, but it was opposed and lost.

After the failure of this attempt, a transaction was entered into between the Corporation and the Government, by which they gave to Government certain parts of the docks for the use of the navy; and the Lords of the Treasury were authorized to advance to them £240,000 in addition to the 6th Geo. IV. c. 103.

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£25,000 formerly advanced. The sum of £240,000 thus obtained was applied in paying the individual creditors, holders of dock bonds, so that the debt continued at its former amount, viz. £265,000.

The conditions of the Government loan were, that the docks and harbour, with all the rates and duties accruing from them, should be transferred in security to the Barons of Exchequer at Whitsunday 1826; and that interest at the rate of 3 *per cent.* should be paid upon the £25,000 formerly advanced, and the same rate upon the £240,000; but it was further stipulated, that upon the latter sum there should be paid an additional 2 *per cent.* as a sinking fund, for repayment of the principal, making 5 *per cent.* to be paid annually upon that sum.

The surplus produce of the rates, if any, is to be applied, after paying the interest of the debt, and the expenses of upholding and managing the docks and other works, first for making good the deficiency to the Corporation of Edinburgh, and then to the sinking fund.

A provision is then made, on the preamble of advantage to the public service, and to the trade of the Port of Leith, that, if the Corporation of Edinburgh shall enter into an agreement to advance £28,000 to extend the Eastern Pier, the Lords of the Treasury are authorized, for the twelve years subsequent to the advance, to accept of 4 in place of 5 *per cent.* upon the sum of £240,000, of which 3 *per cent.* is to be applied in payment of the interest, and 1 *per cent.* is to fall into the sinking fund.

7 Geo. IV. c. 105.

The governing statute, 7 Geo. IV. cap. 105, sets forth the former Acts,—that the sum of £265,000 had been advanced by the Treasury to the Corporation, for which they had been given the security already mentioned,—that the magistrates had agreed to advance £28,000 for the extension of the Eastern Pier, on the execution of which agreement the payment to the sinking fund shall be reduced from 2 to 1 *per cent.* for 12 years after; and, "in order to replace the same to the said sinking fund," it is enacted that the Corporation shall yearly "apply a sum, not exceeding £1,200 in any one year, out of the ordinary rates and duties levied and collected in the Port of Leith, towards replacing the said sum of £28,000 to the sinking fund, for the extinction of the debt due upon the said docks, until the said sum shall be fully replaced to the said sinking fund." This sum it is declared that it is not to be a debt affecting the docks and harbour; but if it shall prove insufficient for completing the extension of the Eastern Pier, any further sum is to be raised on the credit of the dock duties, and to be constituted a debt against the docks, to be paid out of the rates after the debt of £265,000 shall have been extinguished.

Section 28.

The same statute contains a declaration that, while the sinking fund remains restricted to 1 *per cent.*, £1,200 shall be paid yearly to that fund out of the ordinary harbour dues; but that, if there shall be a deficiency to be made good out of the proper revenue of the Corporation, then the £1,200 to be paid from the harbour shall be imputed *pro tanto* in payment of the sum deficient. Hitherto there always has been a deficiency exceeding £1,200, which it was necessary for the Corporation to make good annually out of their proper revenue.

The sum to be advanced by the Corporation towards making good any deficiency in the dock revenues, not including the £1,200 to be paid from the harbour, (it is declared) shall be constituted a charge against the dock duties in favour of the Corporation so soon as the debt of £265,000 and any sum exceeding £28,000 to be expended on the harbour shall be paid, but that it shall not be a charge against the rents or feu duties of the docks, which shall then be taken as a portion of the ordinary revenue of the Corporation.

Branch 2.—Rights of the Clergy of Edinburgh affecting the Trade of Leith.

When detailing the origin of the right of the Corporation of Edinburgh to the duties of the Port of Leith, mention was made of the grant of a custom of one merk, or 13*s.* 4*d.* Scotch, (13⅓ pence sterling), on the importation of goods not the produce of Scotland; and of a statute in 1661, ratifying that gift.

The preamble of that statute bears, that the King, &c., "considering that the rents mortified and doted for entertainment of the ministers of Ed^r^ are not able to entertaine the ministers thereof: But that the present magistrats and council of Ed^r^ are necesstat yearly to borrow money for that effect, which augments the debts and burdens of the said burgh, and will in short tyme make the debts thairof insuperable." Therefore he ratifies the gift which is recited "to the effect the haill benefite of the said gift may now be applyed toward the maintenance of the saids ministers of Ed^r^"

From the council books of the city of Edinburgh it appears that in 1662 this duty was expressly enumerated among the funds for payment of the stipends of the ministers of Edinburgh as then arranged, and stated at the yearly amount of 3,400 merks; and in a case relative to the privileges of the college of justice in 1678, reference is again made to it to the same effect. In 1763, it was claimed by the clergy as one of the ecclesiastical funds.

1780.

In the 25th section of the statute 28 Geo. III., c. 58, this duty is enumerated as one which the Corporation of Edinburgh had a right to levy, but no reference is made to the claim of the clergy.

7th June.

During many years, the Corporation appear to have merged this fund in their common revenue, and not to have recognised any appropriation. But in the year 1813, the clergy of Edinburgh instituted against the magistrates a suit, in which they claimed several different funds as appropriated for their maintenance. Of these funds, the merk *per* ton was one. And the clergy having been successful, it was thenceforward set apart for them, under deduction of the expense of repairing and upholding the harbour.

The statute 7th Geo. IV., c. 105, s. 31, makes special regulations relative to this duty. On the preamble, that by the Act 1661 the whole benefit was to be applied to the maintenance of the ministers of Edinburgh; "and whereas the said duty on the ton and pack of goods imported at the port of Leith is part of the shore and harbour dues of the same, and amounts to about two-fifths thereof so payable by the said lord provost, magistrates, and council to the ministers of the city of Edinburgh, subject to a proportion of the expense of collecting the said shore and harbour dues, and of the expense of repairing and maintaining the harbour of Leith:" there is then set forth the expediency of regulating the extent of the obligation as between the existing ministers of Edinburgh and their successors relative to their proportion of the advance of £28,000 for the extension of the Eastern Pier. A provision follows by which the duty is declared liable to deductions for the expenses of collecting it, and for repairs on the harbour; after making which, the Corporation are entitled to retain annually £600 as an equivalent for the proportion of the advance which the clergy would have otherwise been

required to make. But there is a proviso, that until the whole sum of £28,000 shall have been paid, a rateable proportion only of the £600 shall be retained.

By this section, therefore, there is, *first*, a statutory recognition of the rights of the clergy to this duty, and, *secondly*, a declaration of the funds out of which it shall be payable, and of the portion of those funds which shall be so applied.

Branch 3.—*Certain other Burdens.*

There are other Debts deemed to be due by the Corporation, connected with the harbour and docks. Pontage Duty.

Mention was formerly made, while detailing the purport of the statutory powers, relative to the erection of drawbridges and formation of streets, but it is necessary under this branch to give a more detailed state.

The upper drawbridge was erected under powers given to the Corporation by the 28th Geo. III. Chapter 58.
The 47th Geo. III. authorized them to build the lower drawbridge, and to open up streets leading to Chapter 3.
it and to the upper drawbridge, and empowered them to levy one penny *per* ton upon all goods im- Section 25.
ported at Leith to defray the expense of the bridge, and approaches to it and the upper bridge, and for keeping both bridges in repair. The Act further empowered them, if the duty of one penny *per* ton should not produce 7½ *per cent.* upon the sums expended on the works, to impose an additional Section 26.
halfpenny *per* ton on all goods imported into Leith.

The moneys so to be raised, and the rents of areas to be acquired for opening up the access to the bridge, were directed to be applied to keeping the bridges in repair, and to payment of the interest and principal of the debt to be contracted in erecting the lower bridge, and executing the works con- Section 27.
nected with opening avenues to both bridges.

Separate accounts are directed to be kept of the receipts and expenditure on account of the bridges; Section 28.
and it is declared, that as soon as the tonnage duty, and any other annual revenue that shall arise from grounds or areas to be acquired for the purposes of the Act, shall amount to such a sum, after defraying the expense of repairs and management, as shall be equal to the repayment of the capital sum to be expended for the purposes of the Act, then the tonnage duty shall cease and determine.

The 7th Geo. IV. authorizes the Commissioners appointed by it to superintend the works and management of Leith Harbour, to open up and widen certain other streets leading to the drawbridges; and the Corporation are authorized to continue levying the tonnage duty till the expense of opening up these streets, as well as the expenses incurred under the 47 Geo. III., are paid. The Corporation of Edinburgh had advanced £30,273 0*s.* 6$\frac{4}{12}$*d.* upon these works, including loss of interest, at Whitsunday 1831.

The sum received by the Corporation from tonnage duty, which is levied at the highest rate, for the year from Whitsunday 1832 to Whitsunday 1833, was £970; so that, taking the interest at 4 *per cent.*, there was a deficiency of £180. The tonnage duty never can be a source of revenue to Edinburgh; for, as soon as the debt incurred is paid, the duty is to cease.

The pontage debt has no connexion with the dock debt, though the bridges were built in connexion with the harbour improvements, and to give access to the docks.

Claims, amounting to nearly £1,000 *per annum*, have been made upon the revenue for Poor Rates Poor Rates.
and police duties, but these have not hitherto been made effectual.

Article III.—Present Value of the Dock and Harbour Property exhibited, by contrasting the Amount of Income with that of Expenditure and Burdens.

Notwithstanding every exertion, it has been found extremely difficult to procure a precise statement of the amount of Revenue, Expenditure, and Burdens. Much complication arises from the number of parties interested, viz., the Corporation of Edinburgh, the Dock Commissioners, the Government, and the Clergy. The various duties levied, the separate accounts kept, and the numerous transfers between the Corporation and the Dock Commissioners, have increased the complexity. And the accounts of the Dock Commissioners have not been audited since 1826. The statements and views now to be given must, therefore, be deemed approximations only.

In the Appendix are inserted four Abstracts, viz., I. Abstract Account of the Revenue and Expenditure relative to the Docks of Leith, from Whitsunday 1826 to Whitsunday 1833. II. Abstract Accounts of the Gross and Net Produce of the Harbour of Leith, from Whitsunday 1826 to Whitsunday 1833. III. Abstract of the Gross and Net Produce of the Harbour and Docks of Leith; the total Amount of the Gross and Net Produce of both; the Payments made to Government on account of Interest and Sinking Fund on its Debt; and the Balance paid by the Corporation of Edinburgh; all from Whitsunday 1826 to Whitsunday 1833. And, IV. Abstract Account of the Merk *per* Ton, and of the Sums levied from the Clergy for the Extension of the Eastern Pier.

In these Abstracts, as well as in the accounts of the Corporation, the affairs of the dock and harbour are kept separate. This was necessary, as, should the debt to Government on the docks be paid off in part by advances made by the Corporation out of the harbour dues, the Corporation becomes ultimately *creditor* on the *dock duties* for these advances.

As, however, the security of Government extends over the harbour as well as the dock duties, and as, since the formation of the docks, the revenue of the harbour must have been increased by the augmented number of shipping, it is proper to exhibit the dock and harbour accounts in combination. Thus the profit or loss to the Corporation of Edinburgh from the harbour and docks, since the transaction with Government at Whitsunday 1826, will be at once apparent.

From combining these Abstracts (according to Appendix No. III.) the following conclusions arise:

	£.	*s.*	*d.*
1. The total net revenue from the *docks*, from Whitsunday 1826 to Whitsunday 1833, was	36,121	0	2$\frac{9}{12}$
2. The payments to Government, on account of interest and sinking fund, were	73,806	18	9$\frac{6}{12}$
3. The excess of the payments to Government by the Corporation of Edinburgh, over the net revenue of the docks, was	37,685	18	6$\frac{9}{12}$
4. This excess exceeded the net revenue (£32,482 9*s.* 11*d.*) of the harbour by	5,203	8	5$\frac{7}{12}$

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This last sum, then, was the total advance made to Government by the Corporation out of its common good, on account of the harbour and docks of Leith.

5. The average annual deficiency made good by the Corporation of Edinburgh during the last seven years was £743 6*s.* 11*d.*

6. The deficiency on the united concern of the docks and harbour appears, however, to have occurred during the first four years; the net revenue, chiefly by diminution of expenditure, having improved during the last three years, and left a balance on the whole account in favour of the city, thus:

	£.	*s.*	*d.*
Average annual produce of harbour dues during last three years, 1830—33	4,892	16	0
Average annual deficiency, during same three years, of dock dues, to be paid out of harbour	3,315	2	7
Average annual balance in favour of the city	£1,577	13	5

7. Against this profit (if permanent) must, however, be placed the interest of the sum of £26,163 11*s.* $0\frac{9}{12}d.$ paid by the Corporation in terms of the statute 7 Geo. IV. for extending Leith pier. The interest of £26,163 11*s.* $0\frac{9}{12}d.$, at 5 *per cent.*, is £1,308 3*s.* 6*d.*, being little short of the annual surplus, as above, of £1,577 13*s.* 5*d.*

8. If the charges on the Government loan remain as at present, and the net harbour and dock revenues continue at the average of the last three years, and no new works be required, the Corporation of Edinburgh will neither gain nor lose in income by the harbour and docks of Leith, until, by the operation of the sinking fund at present in action, which will take about 60 years to redeem the debt to Government, the Corporation again become absolute proprietor of the harbour and docks free of incumbrances.

9. But, by the arrangement with Government in 1829, the limitation to 1 *per cent.* of the sinking fund on the dock debt ceases, and it is raised again to 2 *per cent.* upon the original sum advanced of £240,000, which makes an addition of £2,400 to the annual payment presently made to Government. Supposing, then, the net revenue of the harbour and docks to continue at the average of the last three years, then, after 1839, the interest of the Corporation of Edinburgh in the harbour and docks will stand thus:

	£.	*s.*	*d.*
Average annual balance in favour of city during the last three years	1,577	13	5
Additional *per centage* to be paid to Government	2,400	0	0
Balance	£822	6	7

Being estimated deficiency in harbour and dock revenues to meet the payments to Government, and which, under present arrangements, must be made up out of the ordinary revenues of the Corporation.

10. By the operation of this increased sinking fund, the debt to Government would, however, be paid off in about 30 years: at the end of which the Corporation would obtain the docks unencumbered with the Government debt.

The debt on the docks at March 1832 stood thus:

	£.	*s.*	*d.*	£.	*s.*	*d.*
1. Bond to Barons of Exchequer, dated 4th December 1805				25,000	0	0
2. Bond to ditto, 4th July 1827	240,000	0	0			
Deduct paid off by sinking fund	19,007	5	0			
				220,992	15	0
				£245,992	15	0

In an Appendix to Report made in October 1834 by the accountant of the Corporation of Edinburgh, a more favourable view of the affairs of the docks and harbour is exhibited than that which the Commissioners have ventured to give. In the foregoing statement, it appeared the safer course to take the average annual produce of the dock and harbour dues for three years, rather than to limit the view to the produce of a single year. The accountant, however, founds his calculations on the revenue for a single year; that of the docks from Whitsunday 1833 to Whitsunday 1834, and that of the shore or harbour from 14th September 1833 to 13th September 1834.

	£.	*s.*	*d.*
The free produce of that year, including the pontage dues, is stated at	14,816	9	$10\frac{10}{12}$
Taking this sum as the annual average free revenue, and applying it to the interest and sinking fund upon the dock debt due Government	10,350	0	0
There appears a surplus of	£4,466	9	$10\frac{10}{12}$
Annually, at the present rate of interest and sinking fund.			
In 1839 the sinking fund is to be increased by 1 *per cent.* on £240,000.			
Supposing the free produce then to remain as now	14,816	9	$10\frac{10}{12}$
The interest and sinking fund to be deducted being	12,750	0	0
There will be a surplus of	£2,066	9	$10\frac{10}{12}$

In this statement there is an obvious error; for the pontage debt, and in consequence the pontage revenue, have no connexion with the dock debts and revenue. Indeed, the pontage revenue for the last year is nearly £200 short of the interest of the pontage debt; and if the accountant chose to include the revenue, he ought to have deducted the interest. But, laying aside the pontage dues, which for the year 1834 were £1,040, the surplus revenue for that year will be reduced to £3,426 9*s.* $10\frac{10}{12}d.$, and the surplus in 1839 will be reduced to £1,026 9*s.* $10\frac{10}{12}d.$

There still remains, however, a difference of £1,848 16*s.* $5\frac{1}{2}d.$, between the view formerly exhibited

in this Report, and that furnished by the accountant, which arises from the excess of revenue for 1833-34 above the average of the three previous years; for,

	£.	s.	d.
The net produce of last year, independently of pontage dues, was .	13,776	9	10⅛
The average produce of the three previous years was . . .	11,927	13	4½
	£1,848	16	5½

This increase of the net produce of the harbour and shore dues for the year 1834 arises partly from a diminution of expenses of management and repairs, &c., and partly from an increase of receipts.

	£.	s.	d.
The average expenses of management, repairs, &c., of the docks and harbour, for each of the three years previous to Whitsunday 1833, was	5,115	15	2¼
The expenses of 1833-4 are	3,999	15	1
Shewing as diminution of expenses . . .	£1,116	0	1¼
And leaving of the total excess of 1833-4 . . .	1,848	16	5½
The sum of	£732	16	4¾
As the excess of receipts.			

Of the diminution of expense £640 is occasioned by reduction of salaries. Of the excess of receipts £174 consists of arrears of former years from the dock duties.

In the Abstract No. IV. are shown, *First*, The amount of the merk *per* ton paid to the clergy for the last seven years. This was necessary in order to exhibit fully the amount of the burdens imposed upon those frequenting the port of Leith. The amount was £16,979 4*s.* 5⅞*d.* *Second*, The sums paid by the clergy for completing the Eastern Pier. Arrangements were made, according to which the clergy contributed an annual equivalent as the works proceeded. The sums so paid by them for the years from Whitsunday 1827 to Whitsunday 1833, both inclusive, amounted to £1,833 8*s.* 8⅜*d.* The clergy have continued to pay to the Corporation the sum of £480 a-year.

Article IV.—Alleged Operation of the present System, and the Means by which its Defects may be remedied.

Three questions arise under this article; *First*, What the effects of the existing system have been upon the interests of the Corporation of Edinburgh; *Second*, What they have been upon those of the port of Leith; and, *Third*, What prospective course can be adopted, which would operate equitably with relation to both classes of interests.

Branch 1.—*Operation of the System on the Interests of Edinburgh.*

1.—Whether the property of the harbour and docks has hitherto been a source of profit or loss to the Corporation of Edinburgh is a question on which there is a difference of opinion. In so far as the Commissioners have been able to judge, it does appear to them that hitherto there has been loss, or at least that there has been no surplus which the Corporation of Edinburgh could apply to purposes other than those connected with the harbour and dock property. The accounts, as already observed, come down only to Whitsunday 1833; but at 1st March, 1832, the interest payable to Government fell into arrear.

According to the Evidence, payments of interest have subsequently been made. For in September 1833, the interest for six months was paid, and that for other six months was paid in April 1834. The Corporation now strictly appropriate all the moneys received from the harbour and docks to meet the claims of Government. The interest is now owing from March 1833. The alleged cause of the arrear stated was the misapplication, by the Corporation, of the funds which ought to have been applied towards extinction of the interest. The moneys drawn from the harbour and docks were massed with the ordinary revenues of the Corporation, and were applied to defray the current expenditure. Recourse was had to this misappropriation in order to preserve the sinking credit of the Corporation; and it was so far effectual as to be the means of warding off bankruptcy for some time. These are the statements and views of certain persons examined. Evidence of Councillor M'Laren.

From the different course now followed by the Corporation it is not improbable that the interest will be regularly paid, and the sinking fund kept in due operation. This will have the double effect of preventing arrears and of increasing the value of the property, by decreasing the amount of the debt with which it is burdened. But it may well be doubted whether, on an average of years, there will ever be any surplus beyond the sinking fund.

An attempt has been made by certain persons examined to shew, from the experience of the last year, that, for the future, such a surplus may be expected. According to one of them, after making every deduction, there would have been for that year a surplus of £3,557 4*s.* 7*d.* That there was no such surplus in former years is ascribed to lavish expenditure in the improvement and maintenance of the works. As £2,000 a-year was the sum which, in terms of the statute, was allowed to the Dock Commissioners, it was assumed that the allowance had been adjusted by the calculations of men of skill, and, therefore, that it ought to have been sufficient. On this principle all expenditure beyond that allowance was represented as unnecessary; and examples of alleged useless outlay were given. Had there not been this super-expenditure it was said there would have been a large surplus, after payment of the interest and sinking fund; and when (viz. in 1839) the sinking fund will rise to 5 *per cent.*, requiring £2,400 to be taken out of the above sum of £3,557 4*s.* 7*d.*, there might be still a surplus of £1,157 4*s.* 7*d.* if it were not that £1,200 *per annum* more must be paid in addition to that interest and sinking fund, as before stated. Evidence of Bailie Donaldson, and CouncillorM'Laren.

The Commissioners entertain very serious doubts of the soundness of the *data* on which the supposed surplus is calculated. It is not easy to decide whether or not the expenditure has hitherto been lavish. A harbour and docks, of all descriptions of property, is that with relation to which it is most difficult to say that the expenditure can be brought within a specific sum. While, therefore, savings may be effected, it would not, for practical purposes, be advisable to calculate on any surplus beyond the sinking fund, as it will be in 1839; and it is exceedingly doubtful whether the revenue will be

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equal to the interest and the sinking fund at that period, and continue to be so till so large a debt has been fully extinguished.

Although the management of the Dock Commissioners may not have been so economical as it might, and although it may (as is, indeed, unavoidable) have been erroneous in some particulars, it must, when viewed as a whole, be deemed much more advantageous than was the management previously to the creation of the Commission.

Branch 2.—Operation of the System on the Interests of Leith.

The operation of the existing System on the Interests of Leith has been represented as being highly injurious. The different port charges are represented to be so high as to prevent the resort which would otherwise take place. Independently of the dock, harbour, and other dues, already enumerated, there are likewise payable prime-gilt, bulkage, rowage, and cargo bills. The prime-gilt is a duty consisting of one penny sterling *per* ton on all goods imported into Leith, payable to the Trinity House, and with which the Corporation of Edinburgh have no concern. The various charges upon a timber vessel of 305 tons amounted to nearly £70; and strong representations have been made of the heavy advances to which traders are in consequence subjected. Ships, it was stated, can be chartered to any other port in the Frith of Forth for 5 *per cent.* less than to Leith, by reason of the high port charges. In many instances there is, in the charter-parties for the Frith of Forth, an express declaration against delivering the cargoes at Leith, unless on payment of an additional rate of freight, which is usually 5 *per cent.* In consequence of this, and of the want of good accommodation in the harbour for unloading timber, vessels very frequently do go to other ports, avoiding altogether the port of Leith, however inconvenient such a course may be for them in other respects. Vessels have gone to the port of Fisherrow, about six miles distant, and there discharged their cargoes, which were sent by carts to Edinburgh; and, notwithstanding the additional expense thus incurred, they find it a cheaper mode than if the cargoes were discharged at Leith. And cargoes of wood have been landed at Grangemouth, and brought into Edinburgh by the Union Canal, to save the port charges.

Evidence of Messrs. Crichton, Scarth, Hardie, *et al.*

While these rates are considered to be very hurtful to the foreign trade, they are thought to be still more so to the coasting trade. It is matter of notoriety that a large proportion of the trade of Leith consists of importation of goods from London, a great part of which is shipped for Glasgow by the canal. The payment of the merk *per* ton has been represented as peculiarly injurious. Much injustice and hardship are considered as resulting from imposing on goods making the transit by the canal the payment of stipend to the ministers of Edinburgh.

The mercantile gentlemen connected with Leith, who were examined, stated explicitly that the Corporation of Edinburgh have unjustifiably increased the rate and number of the port charges; and that attempts to obtain a reduction of them have always proved unsuccessful. In consequence there has been a great decrease of the trade of Leith. There has been much more competition with other ports, and to them branches of trade which formerly flourished in Leith have been transferred, by reason of the high port charges. "Many," it was said, "who were anxious to go into the shipping trade here (Leith) are kept back entirely in consequence of these dues." A report of a meeting of the dock commissioners bears, "that the trade of the port is in the course of falling off, there having been a decrease, in the course of last year, of £783 on the aggregate revenues." And this result has been represented as having been brought about by the multiplied exactions which have been allowed to burden the trade of Leith, in connexion with the late burgh system.

4th October 1833.

The members of the Corporation of Edinburgh who were examined did not seem to be intimately acquainted with the subject, nor could they name others who were likely to have opinions different from those of the mercantile men already noticed. While no information was given by them relative to the difference between the rates at Leith and those of the other ports of the Frith of Forth, it was stated that they were not much higher than those at Dundee, which are accounted moderate. The rates at Leith, it was represented, were deemed by some to be not justly distributed, either with relation to goods of different kinds, or as between the ship and cargo; for some goods were overtaxed, and others undertaxed; and too much was laid on the vessel, and too little on the cargo. But an opinion was expressed that the distribution in the latter case was immaterial, as the amount of the dues on the vessel was necessarily taken into consideration by the owner in adjusting the freight.

Branch 3.—Prospective Course which can be adopted equitably with relation to the different Interests.

In considering this complicated subject, it is necessary to examine, *first*, the alleged causes of the existing evils; *secondly*, the specific remedies proposed; and *thirdly*, how far those remedies are equitable and expedient.

First, The alleged causes of the existing evils are simple and obvious. During the period previous to 1826, the management of the harbour and docks in all its departments belonged exclusively to the Corporation of Edinburgh and their subordinate officers. Their object, whether successful or not, was said to have been so to act as to render the revenue sufficient, not merely for maintaining and improving the works, but for affording large salaries to their officers, and a surplus to be applied to the general purposes of the Corporation. In consequence the rates were raised by them, without duly considering what effects the rise might produce upon the trade and interests of Leith. After 1826, the power of maintaining and improving the harbour was vested in Commissioners, but the Corporation retained the right to the revenue, and, therefore, of fixing the rates. This separation was intended to effect two purposes: 1*st*, to commit the management of the practical operations to persons more conversant with the subject, and more closely connected with the interests of Leith; and, 2*nd*, to abate the jealousy and strife which existed between the mercantile community of Leith and the Corporation of Edinburgh. On the effect with relation to the former object, the Commissioners have already given their opinion. The latter, unfortunately, has not been attained; for the power of fixing the rates having been continued with the Corporation, the justness and expediency of the mode in which it was exercised has been much questioned.

Evidence, *ut supra.*

In combination with the burdens and impediments said to have been thus created, there are those arising from the tax for payment of the stipend of the clergy of Edinburgh, for which, unquestionably, no censure can attach to the Corporation.

Second, In so far as relates to the future management of the harbour and docks, the remedy proposed has been to invest the whole in one body of Commissioners. This plan necessarily involves the exclusion of the Corporation of Edinburgh from all right of interference. Different opinions

EDINBURGH. (*App. Leith Harbour, &c.*)

exist as to the proper constitution of the commission. By some, the present commission has been thought sufficient, while others deem its constitution bad, by reason of its not including delegates chosen by the electors of Leith. A commission, in which Government should have an efficient control, has, by others, been thought most advisable. Even although the present or a similar commission should be continued, it has been suggested that the adjustment of the rates, the salaries of officers, and the expenses of improvements and repairs, should be subject to the approbation of the Lords of the Treasury, until the debt due to Government shall be extinguished. Conformably to this plan, the Corporation of Edinburgh would be divested of their property, under reservation to their creditors of any eventual interest which they might have a right to attach.

Evidence, *ut supra.*

While the persons examined declared that they did not wish to deprive the clergy of Edinburgh of any part of their stipends, but that a different mode of payment than the merk *per* ton ought to be devised, they did not attempt to suggest a substitute.

Evidence, *ut supra.*

Third, The Commissioners feel that there is great difficulty in so dealing as at once to benefit the port and the inhabitants of Edinburgh and Leith, and to refrain from apparently injuring the Corporation of Edinburgh. From the concurrent statement of many persons it may be deemed that the port charges are too high, and that, according to experience, there is a great probability that were they lowered the trade of Leith would increase, while there would be no diminution, and perhaps even an increase, of their aggregate amount. The Corporation of Edinburgh do not appear to be a body well fitted for regulating those rates; for although the interests of Edinburgh and Leith must be identified, when viewed upon a large scale, yet it is undoubted that there is a practical separation between even the mercantile classes of the two communities. Although part of the past evils may be ascribed to the former constitution of the Corporation, yet, for obvious reasons, it is questionable whether the recent change is calculated to afford a remedy.

Much practical embarrassment has, in the opinion of the Commissioners, been created by the existence of two bodies, one of which is to fix and collect the port duties, and the other to manage the harbour and docks. There are two establishments, and different sets of books and accounts, which necessarily create heavy expense, and introduce intricacy into the mode of management. An annual sum has, indeed, been allowed by the statute to the Dock Commissioners, but it never has been sufficient, and most probably never will be. The advance by the Corporation of the additional moneys, according to estimates, has not hitherto been practically well managed, and from its very nature must always be a cumbrous mode of dealing. But a more serious evil is the supposed opposition of interests between the two bodies; for as the Commissioners always have been, and always will be, anxious to obtain as large sums as possible to expend upon improvements, so the Corporation will be anxious to restrict them, in order to add to their general revenue.

A consolidation of the different powers and rights (subject, perhaps, to different modifications) which are at present vested in the Corporation and Dock Commissioners would be highly advantageous, by removing the evils, and producing uniformity of management, guided, under a well-constituted commission connected with neither community, by knowledge, skill, and attention to the sound interests of both communities.

Objections may be urged against this consolidation, because it would amount to a transfer of the proprietary rights of the Corporation of Edinburgh. The Commissioners do not view it in that light, but rather as the constitution of a trust for the benefit both of the Corporation and the creditors.

From statements already given, it is obvious that, 1*st*, a long period (about 30 years) must elapse before, by the operation of the sinking fund, the present debt can be liquidated; 2*dly*, This calculation proceeds on the assumption that no new debt will be incurred, which, considering the past course of management, will not likely prove true; and, 3*dly*, There is likewise involved the supposition that the annual revenue will not decrease; whereas the experience of the last two years gives rise to a contrary presumption, sanctioning the opinion that, if the present rates shall be retained, the trade will gradually decay, and the revenue diminish.

The existing interest of the Corporation of Edinburgh, and their creditors, appears, in consequence, to be very remote and inconsiderable. But if, in compliance with strict rules, it shall be thought necessary that a reversionary right should be preserved, provision may be made that any commission which may be created should pay over to the Corporation of Edinburgh, or their creditors, any surplus revenue which may arise, or an equivalent may be granted.

In the actual condition of the docks and harbour, one of two courses may be practically adopted.

First, An adjustment thoroughly equitable between the Government and the Corporation might be effected by valuing the contingent reversionary interest of the Corporation, and paying either the amount, or a corresponding annuity. The Corporation and their creditors would be thus happily relieved from an undertaking for the management of which they are inadequate; and an effective commission, under the direct superintendence of Government, might introduce such a system as would at once benefit the trade of Leith and the community of Edinburgh, while such a revenue might probably be drawn as would at least protect Government against loss. A lower rate of duties, the introduction of consolidation, and of a simpler principle of imposition, would form the leading objects of the system; and the administration might, perhaps, be rendered more economical, and certainly more uniform and effective, by consolidating the separate establishments.

Second, If the parties should not think it right thus to make such arrangement, the same objects might be effected by the creation of a commission to endure until the debt was paid; which result, as already observed, cannot arise until a very distant period.

The exclusion of local interests and feelings would become of main importance; and perhaps the most expedient course would be to have the appointment vested in the Government, with the addition perhaps of the chief magistrates of Edinburgh and Leith.

DOCUMENTS.

The Documents relating to the harbour and docks are included in the list appended to the Report on the town of Leith.

ROBERT HUNTER.

APPENDIX TO REPORT ON THE PRESENT AND PROBABLE FUTURE STATE AND CONDITION OF THE HARBOUR AND DOCKS OF LEITH.

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No. I.—ABSTRACT ACCOUNT of the REVENUE and EXPENDITURE relative to the DOCKS of LEITH, from Whitsunday 1826 to Whitsunday 1833.

	Year to 15 May 1827.	Year to 15 May 1828.	Year to 15 May 1829.	Year to 15 May 1830.	Year to 15 May 1831.	Year to 15 May 1832.	Year to 15 M 1833.	Total.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Sums of gross revenue	6,942 8 6 9/12	8,003 13 0 6/12	8,378 14 2	9,738 19 0 6/12	10,045 14 9 6/12	9,491 5 2 6/12	9,664 0 4 6/12	62,264 15 2
Sum of expenses of management, improvements, repairs, &c.	7,070 18 1 8/12	4,749 11 2 9/12	3,055 4 5 3/12	3,171 13 0 3/12	2,785 17 5 6/12	2,699 8 11 8/12	2,611 1 9	26,143 14 11 8/12
Net revenue	. . .	3,254 1 9 9/12	5,323 9 8 9/12	6,567 6 0 3/12	7,259 17 4	6,791 16 3 8/12	7,052 18 7 6/12	36,121 0 2 9/12
With a short-coming for the first year of	128 9 6 9/12	. . .	. . .	. . .	. . .	. . .	. . .	
Which applied to the payments to Exchequer on account of debt to Government	659 11 9	21,397 7 0 6/12	10,350 0 0	10,350 0 0	10,350 0 0	10,350 0 0	. . .	73,806 18 9 6/12
With £10,350 due, but unpaid, for year 1833	. . .	. . .	. . .	. . .	. . .	. . .	10,350 0 0	
Makes deficiency	788 1 3 9/12	18,143 5 2 9/12	5,026 10 3 3/12	3,782 13 11 9/12	3,090 2 8	3,558 3 8 9/12	3,297 1 4 6/12	37,685 18 6 9/12

No. II.—ABSTRACT ACCOUNTS of the GROSS and NET PRODUCE of the HARBOUR of LEITH, from Whitsunday 1826 to Whitsunday 1833.

1.—ABSTRACT ACCOUNT in relation to the SHORE DUES levied at the PORT of LEITH, from Whitsunday 1826 to Whitsunday 1833.

	Gross Produce.	Deductions.			Arrears considered recoverable.	Net Produce.
		Expenses of Collection.	Improvements and Repairs of Harbour.	Overcharges and irrecoverable Arrears.		
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1. From Whitsunday 1826 to Whitsunday 1827.	6,800 7 0 1/12	713 1 10 2/12	2,840 11 10	3 9 2	6 17 6	3,236 6 8 9/12
2. ,, 1827 ,, 1828.	6,327 15 3 7/12	829 13 8 7/12	1,823 2 6 8/12	0 19 4 6/12	14 7 11 5/12	3,659 11 8 8/12
3. ,, 1828 ,, 1829.	6,395 18 11 5/12	744 17 11 6/12	948 4 7 9/12	37 0 5	125 15 11 3/12	4,540 0 0 4/12
4. ,, 1829 ,, 1830.	6,306 19 4 8/12	635 0 1 3/12	1,463 9 0 4/12	173 0 1	4 0 4	4,031 9 10 1/12
5. ,, 1830 ,, 1831.	6,524 4 11	883 17 8 3/12	1,295 12 5 4/12	357 7 3 1/12	15 12 0	3,971 15 5 6/12
6. ,, 1831 ,, 1832.	6,263 16 9 6/12	484 17 9 3/12	1,327 12 1 6/12	0 5 7 8/12	45 15 11 8/12	4,405 5 3 5/12
7. ,, 1832 ,, 1833.	6,399 0 0 3/12	434 6 2 3/12	1,342 9 10 6/12	0 19 9	94 3 2	4,527 1 0 6/12
Sums	45,018 2 5 4/12	4,725 15 3 5/12	11,041 2 5	573 1 9 1/12	306 12 10 7/12	28,371 10 1 3/12

2. ABSTRACT ACCOUNT of BERTHAGE and FLAG or LIGHT DUES, levied at the PORT of LEITH, from Whitsunday 1826 to Whitsunday 1833.

	Gross Produce.	Deductions.			Net Produce.
		Shoremaster and Annuities.	Expenses of Collection.	Law and General Expenses.	
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1. From Whitsunday 1826 to Whitsunday 1827	1,027 7 7	215 1 0	109 1 5	35 8 $8\frac{6}{12}$	667 16 $5\frac{6}{12}$
2. ,, 1827 ,, 1828	936 5 4	150 0 0	97 5 3	28 16 $8\frac{6}{12}$	660 3 $4\frac{6}{12}$
3. ,, 1828 ,, 1829	944 0 $9\frac{6}{12}$	150 0 0	100 2 $5\frac{6}{12}$	212 15 $2\frac{3}{12}$	481 3 $1\frac{9}{12}$
4. ,, 1829 ,, 1830	910 19 $1\frac{6}{12}$	150 0 0	96 1 $10\frac{9}{12}$	137 6 $8\frac{9}{12}$	527 10 6
5. ,, 1830 ,, 1831	931 16 1	150 0 0	96 8 $1\frac{6}{12}$	169 6 $6\frac{6}{12}$	516 1 5
6. ,, 1831 ,, 1832	887 17 2	150 0 0	88 15 $8\frac{6}{12}$	28 11 $5\frac{6}{12}$	620 10 0
7. ,, 1832 ,, 1833	902 12 $7\frac{6}{12}$	150 0 0	90 19 $8\frac{6}{12}$	23 18 0	637 14 11
Sums	6,540 18 $8\frac{6}{12}$	1,115 1 0	678 14 $6\frac{9}{12}$	636 3 4	4,110 19 $9\frac{9}{12}$

No. III.—ABSTRACT of the GROSS and NET PRODUCE of the HARBOUR and DOCKS of LEITH; the Total Amount of the Gross and Net Produce of both; the Payments made to Government on Account of Interest and Sinking Fund on its Debt; and the Balance paid by the City of Edinburgh; all from Whitsunday 1826 to Whitsunday 1833.

Years.	Docks.		Harbour.		Docks and Harbour.		Paid to Government by City of Edinburgh, on Account of Interest and Sinking Fund.	Balance.
	Gross.	Net.	Gross.	Net.	Gross.	Net.		
	£. s. d.	A short coming this year of £. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
From Whitsunday 1826 to Whitsunday 1827	6,942 8 $6\frac{6}{12}$	128 9 $6\frac{9}{12}$	7,827 14 $7\frac{1}{12}$	3,904 3 $2\frac{3}{12}$	14,770 3 $2\frac{5}{12}$	3,775 13 $7\frac{6}{12}$	659 11 9	
,, 1827 ,, 1828	8,003 13 $0\frac{6}{12}$	3,254 1 $9\frac{9}{12}$	7,264 0 $7\frac{7}{12}$	4,319 15 $1\frac{3}{12}$	15,267 13 $8\frac{1}{12}$	7,573 16 $10\frac{1}{12}$	21,397 7 $0\frac{6}{12}$	
,, 1828 ,, 1829	8,378 14 2	5,323 9 $8\frac{9}{12}$	7,339 19 $8\frac{1}{12}$	5,021 3 $2\frac{1}{12}$	15,718 13 $10\frac{1}{12}$	10,344 12 $10\frac{1}{12}$	10,350 0 0	
,, 1829 ,, 1830	9,738 19 $0\frac{6}{12}$	6,567 6 $0\frac{6}{12}$	7,217 18 $6\frac{8}{12}$	4,559 0 $4\frac{1}{12}$	16,956 17 $6\frac{8}{12}$	11,126 6 $4\frac{4}{12}$	10,350 0 0	
,, 1830 ,, 1831	10,045 14 $9\frac{6}{12}$	7,259 17 4	7,456 1 0	4,487 16 $10\frac{6}{12}$	17,501 15 $9\frac{6}{12}$	11,747 14 $4\frac{6}{12}$	10,350 0 0	
,, 1831 ,, 1832	9,491 5 $2\frac{6}{12}$	6,791 16 $3\frac{3}{12}$	7,151 13 $11\frac{6}{12}$	5,025 15 $3\frac{3}{12}$	16,642 19 2	11,817 11 $6\frac{1}{12}$	10,350 0 0	
,, 1832 ,, 1833	9,664 0 $4\frac{6}{12}$	7,052 18 $7\frac{6}{12}$	7,301 12 $7\frac{9}{12}$	5,164 15 $11\frac{6}{12}$	16,965 13 $0\frac{3}{12}$	12,217 14 7	10,350 0 0	
	62,264 15 2	36,249 9 $9\frac{9}{12}$	51,559 1 $1\frac{1}{12}$	32,482 9 11	113,823 16 $3\frac{1}{12}$	68,603 10 $3\frac{1}{12}$	73,806 18 $9\frac{6}{12}$	5,203 8 $5\frac{7}{12}$
		128 9 $6\frac{9}{12}$						
		36,121 0 3						

EDINBURGH. (*App., Leith Harbour, &c.*)

No. IV.—ABSTRACT ACCOUNT in relation to the Merk per Ton, levied at the PORT of LEITH, from Whitsunday 1826 to Whitsunday 1833.

	Gross Produce.	Deductions.			Arrears considered recoverable.	Net Produce.
		Expenses of Collection.	Improvements and Repairs of Harbour.	Overcharges and irrecoverable Arrears.		
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1. From Whitsunday 1826 to Whitsunday 1827	4,001 16 11 5/12	402 5 10 2/12	1,671 12 3	0 0 0	0 0 0	1,927 18 10 3/12
2. ,, 1827 ,, 1828	3,871 16 0 4/12	421 13 5 5/12	1,115 10 6 1/12	1 1 2 6/12	6 0 1 4/12	2,327 10 9
3. ,, 1828 ,, 1829	3,550 19 10 1/12	381 8 7 10/12	526 9 1 1/12	0 5 4	53 14 1 9/12	2,589 2 7 5/12
4. ,, 1829 ,, 1830	3,754 16 9 10/12	372 6 9 9/12	871 5 2 11/12	39 1 3	0 0 0	2,472 3 6 9/12
5. ,, 1830 ,, 1831	3,875 10 2	367 0 6 9/12	769 12 4 11/12	61 0 1 1/12	0 0 0	2,677 17 1 8/12
6. ,, 1831 ,, 1832	3,524 11 3 6/12	295 7 4 9/12	747 0 5 6/12	0 7 1 4/12	2 9 11 4/12	2,479 6 4 7/12
7. ,, 1832 ,, 1833	3,491 14 6 9/12	253 18 2 8/12	732 11 1 6/12	0 0 0	0 0 0	2,505 5 3
Sums	26,071 5 7 11/12	2,494 0 10 11/12	6,434 1 1	101 14 11 11/12	62 4 2 5/12	16,979 4 5 8/12

During the period embraced by the present Account, also, the arrangements authorized by the Act 7 Geo. IV. cap. 105, for the Extension of the Eastern Pier of the Harbour, were carried into effect, the Sums required for that purpose having been provided by the City of Edinburgh, the Clergy contributing, on the other hand, as the works proceeded, their agreed on annual Equivalent thus:—

The Sums expended by the City in the Execution of the Works were:—

	£. s. d.
In the year to Whitsunday 1827 . . .	2,587 17 5
,, ,, 1828 . . .	1,488 4 4
,, ,, 1829 . . .	1,589 9 3
,, ,, 1830 . . .	6,762 15 4
,, ,, 1831 . . .	12,204 19 0
,, ,, 1832 . . .	3,275 16 10
,, ,, 1833 . . .	87 17 7
	27,996 19 9

The Annual Equivalent payable by the Clergy:—

	£. s. d.
For the year to Whitsunday 1827 . . .	55 9 1
,, ,, 1828 . . .	87 6 10 9/12
,, ,, 1829 . . .	97 2 5 9/12
,, ,, 1830 . . .	212 16 9
,, ,, 1831 . . .	422 5 8 3/12
,, ,, 1832 . . .	478 8 10
,, ,, 1833 . . .	479 18 11 6/12
	1,833 8 8 8/12

APPENDIX No. II.—GENERAL STATEMENT of the REVENUE and EXPENDITURE of the EDINBURGH POLICE ESTABLISHMENT, from Whitsunday 1833 to Whitsunday 1834.

REVENUE.

	Income applicable to Watching.	Income applicable to Lighting.	Income applicable to Cleaning.	Total.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1. From the Assessment.				
Gross amount of the assessment imposed for general purposes, from Whitsunday 1833 to Whitsunday 1834	13,284 11 6½	8,205 11 10¾	2,494 15 1¾	23,984 18 7
Less—Estimated loss from overcharges, abatements, and desperate arrears, viz.:				
Ten per cent. on general assessment £. 2,363 15 9½				
And 5 per cent on that amount, as the corresponding estimated loss on the penal charge on arrears at 1st March 118 3 9½				
Together, deduct 2,481 19 7	1,374 12 6¼	849 4 7½	258 2 5¼	2,481 19 7
Expected nett produce	11,909 19 0¼	7,356 7 3¼	2,236 12 8½	21,502 19 0
2. From Manure.				
Gross proceeds of street manure, from Whitsunday 1833 to Whitsunday 1834	. .	. .	7,828 3 8	7,828 3 8
Deficiency of revenue on cleaning—or, sum short assessed for that purpose this year	. .	. .	211 16 1	
Total revenue	11,909 19 0¼	7,356 7 3¼	10,276 12 5½	29,331 2 8
Total revenue	11,909 19 0¼	7,356 7 3¼	10,276 12 5½	29,331 2 8

EXPENDITURE.

	Expenses specially applicable to Watching.	Expenses specially applicable to Lighting.	Expenses specially applicable to Cleaning.	General Expenses divisible in terms of § 33 of the Act.	Total.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1. Salaries to officers of the general establishment	615 0 0	109 10 0	109 10 0	524 0 0	1,358 0 0
2. Pay to watching force	8,663 6 3	. .	. .	. .	8,663 6 3
3. Pay to cleaning force	. .	. .	3,073 12 7	. .	3,073 12 7
4. Pensions and gratuities	46 15 0	. .	2 18 6	. .	49 13 6
5. Superintendent, for disbursements under § 108 of Act	56 7 10½	. .	. .	. .	56 7 10½
6. Inspector, towards keep of a horse	. .	12 10 0	12 10 0	. .	25 0 0
7. Commission on assessments	. .	. .	. .	450 17 2	450 17 2
8. Uniform clothing	75 6 2	. .	. .	. .	75 6 2
9. Watchmen's lanterns and lighting	146 8 0	. .	. .	. .	146 8 0
10. Public lamps, viz.:					
1. Pillars, globes, and fittings	. .	736 4 0	. .	. .	736 4 0
2. Gas and oil	. .	3,540 8 9	. .	. .	3,540 8 9
3. Wages to lamplighters	. .	1,374 6 10	. .	. .	1,374 6 10
11. Conveyance of manure	. .	. .	5,915 10 10	. .	5,915 10 10
12. Scavenger's implements	. .	. .	266 0 6½	. .	266 0 6½
13. Commission to salesmen of manure	. .	. .	51 13 9	. .	51 13 9
14. Public necessaries	. .	. .	10 18 0	. .	10 18 0
15. Rents of watch-houses	37 10 0	. .	. .	. .	37 10 0
16. Rents of manure depots	. .	. .	77 2 3	. .	77 2 3
17. Making and repairing manure depots	. .	. .	5 15 2	. .	5 15 2
18. Repairs and furnishings for chief office and watch-houses	272 17 4½	15 0 0	15 0 0	. .	302 17 4½
19. Insurance against fire	7 12 6	. .	. .	. .	7 12 6
20. Printing and stationery	. .	. .	. .	319 16 4	319 16 4
21. Newspapers and advertising	. .	. .	. .	37 8 3	37 8 3
22. Law expenses	133 11 4½	2 6 5	62 1 8½	0 13 4	198 12 10
23. Magistrates of Canongate and Portsburgh, under § 41 of Act	. .	. .	120 0 0	. .	120 0 0
24. Elections of commissioners	. .	. .	. .	50 0 0	50 0 0
25. Watering streets	. .	. .	. .	56 1 11	56 1 11
26. Interest	. .	. .	. .	541 3 2	541 3 2
27. Stamps, postages, and incidents	2 6 11	. .	26 1 9	39 4 11½	67 13 7½
28. Miscellaneous	14 4 8	0 7 4½	5 7 6	1 9 1	21 8 7½
29. Maintenance of prisoners, deducting fines	197 17 3	. .	. .	. .	197 17 3
30. Fire-engine establishment, deducting contributions, &c.	. .	. .	. .	292 16 9	292 16 9
Total special expenses	10,269 3 4½	5,790 13 4½	9,754 2 7		
Total general expenses, appropriated in terms of § 33 of the Act	1,354 16 4	436 4 9	522 9 10½	2,313 10 11½	
Total expenditure	11,623 19 8½	6,226 18 1½	10,276 12 5½		28,127 10 3½
Surplus revenue on watching and lighting, or amounts over assessed for these purposes this year	285 19 3¾	1,129 9 1¾			
Balance, being net surplus revenue, or sum over assessed for the general purposes of the Act this year	. .	. .	. .	. .	1,203 12 4½
	11,909 19 0¼	7,356 7 3¼	10,276 12 5½	. .	29,331 2 8

M. C. S. 4 U

EDINBURGH.
(*App., Police.*)

ABSTRACT and GENERAL VIEW of the POLICE FUNDS and DEBTS at Whitsunday 1834.

	£.	s.	d.	£.	s.	d.
Surplus fund at Whitsunday 1833, as per last account				244	10	6¼
General revenue, 1833-34	29,331	2	8			
Ditto Expenditure, ditto	28,127	10	3½			
Surplus revenue this year				1,203	12	4½
Which, added to former surplus, makes				1,448	2	10¾
But deduct therefrom,						
1. Allowance for estimated loss by bad debts for manure, from Whitsunday 1830 to Whitsunday 1833, as directed by minute of finance committee of 13th July, 1833	300	0	0			
2. Additional allowance of one per cent. for estimated loss, by overcharges and desperate arrears of assessments, from Whitsunday 1830 to Whitsunday 1832, as directed by said minute £434 0 8						
Less,—Old arrears of assessments prior to Whitsunday 1830, recovered in the course of this year 55 13 0						
	378	7	8			
Together, deduct				678	7	8
Remains, surplus fund at Whitsunday 1834				£769	15	2¾

CONSTITUTED AS FOLLOWS.

	£.	s.	d.
Funds and debts due to the establishment, viz.:			
Estimated value of arrears of general assessment	4,350	10	8½
Debts due for manure sold £5,317 18 1			
Whereof in bills discounted with British Linen Company 334 19 5			
Remains £4,982 18 8			
Less,—Allowance for bad debts as above 300 0 0			
	4,682	18	8
Value of manure on hand	1,978	18	8
Imprest advance towards maintenance of prisoners in Bridewell	100	0	0
,, for ,, in gaol	25	0	0
Advances from the general fund:			
1. For the erection of watch and engine houses beyond the receipts from the special assessment £915 2 4			
2. On account of the expense of preparing and applying to Parliament for a new Bill, and of obtaining the Act, 1834 590 0 0			
Together £1,505 2 4			
Less,—Excess of receipts from the special assessment for the expense of the Act, 1832, beyond the disbursements 458 15 5½			
Remains net advance	1,046	6	10½
Contributions to Fire-engine establishment unpaid	50	0	0
Due by banks for watchmen furnished	198	18	0
Due by Water Company for fire-cocks	35	14	0
Due for old materials left with the landlord on quitting the premises at Fountainbridge	10	0	0
Balance due by Commercial Bank, being overcharge on interest disallowed by accountant	16	2	4
Balance of fines in the hands of the clerk	43	9	0
Balance in collector's hands	355	10	7
Total assets	£12,893	8	10
Deduct,—Debts due by the establishment, viz.:			
Due on account of,			
General expenditure, 1832-3, and preceding £9 0 0¾			
,, 1833-4, 4,159 7 10			
Maintenance of prisoners, 1833-4, 121 17 3			
Fire-engine establishment, 1832-3, and preceding 3 3 7¼			
,, 1833-4, 98 16 4			
In all of expenditure unpaid £4,392 5 1¼			
Due British Linen Company on current account 7,731 8 6			
Deduct in all	12,123	13	7¼
Remains surplus fund at Whitsunday 1834, as above				769	15	2¾

APPENDIX No. III.—NOTES OF INQUIRY to which Written Answers are required from the Incorporated Trades.

1. Brief Statement of the Constitution and History of the Corporation, and reference to, and production of, any Charters or Documents, printed or otherwise, connected with those points.
2. Boundaries within which the Exclusive Privilege is or may be exercised.
3. Funds of the Corporation, either heritable or moveable; how raised; how vested; and how applied for the Corporation and other purposes.
4. Any Widows' Schemes, or other Charitable Institutions of Corporation, whether with or without parliamentary authority.
5. Clerk to give a Comparative List of Prosecutions, for last 30 years, of Intrant Members, Apprentices for same period, distinguishing the number each year.
6. How far the Exclusive Privileges *now* enforced, compare with what they formerly were.
7. Are those Privileges any considerable inducement to enter?
8. How far they could be safely abolished, always reservimg Funds, and other advantages, to the Corporation.
9. What those *other* Advantages are.
10. Right of Presentation to Hospitals, &c.
11. Present State of Corporation generally.
12. If not prosperous, explain Causes and suggest Improvements.
13. Copies of any Resolutions of the Incorporation in reference to the Burgh Reform Bill.
14. Any other Explanations or Suggestions connected with the above points.

Burgh Commission Office, 79, *George-street*,
1*st October*, 1833.

APPENDIX No. IV.—ABSTRACT of RETURNS procured from the

Incorporations.	Roll.		Apprentices and Intrants since 1803.			Entry Moneys.					Nature of Funds.	Gross Amount of Funds.
	No. of Members.	Residing within Ancient Royalty.	Apprentices.	Duration of Apprenticeship.	Intrants.	Strangers.	Apprentices.	Freemen's Sons.	Freemen's Sons-in-Law.	Apprentice Fee.		
						£. s. d.	£. s. d.	£. s. d.	£. s. d.			
1. Surgeons	103	none	610*	various	95	250 0 0	130 0 0	38 6 8	46 13 4	Various £60 recommended as minimum.	Hall and Museum—Entry Moneys—Fees of Diplomas, and Fees of Indentures, besides a Widows' Fund.	The proper Funds of the College are the Hall and Museum burdened with a large Debt. The Incorporation is greatly in debt.
2. Goldsmiths	38	or place of Business 19	178	7 years	44	None admissible as of right.	Varies from 33 6 8 to 75 0 0 according to date of Indenture.	37 10 0	75 0 0	none paid.	Bank of Scotland Stock and Hall.	£27,103 0s. 8d., at December 1833.
3. & 4. Skinners‡ and Furriers	14	2	28	5 years	11	84 0 0	27 15 6 8/12	13 17 9 4/12	13 17 9 4/12	none	Heritable and Moveable.	£2,550 0 0
5. Hammermen	108	50	338	6 years	131	100 0 0	30 0 0	20 0 0	20 0 0	15s.	,,	Houses, &c. £242 per annum. Money lent and in Bank £1,285.
6. & 7. Mary's Chapel—Wrights and Masons.	194	154	408	6 years	289	100 0 0	30 0 0	21 13 4	30 0 0	none	,,	About £20,000
8. Tailors	42	13	147	7 years	46	120 0 0	60 0 0	10 0 0	15 0 0	none	,,	About £11,000
9. Bakers	48	9	since 1823 11	5 years	38	None admissible as of right.	60 0 0	20 0 0	20 0 0	usually £40	Mills and other Heritable Property.	Dependent on value of Mills.
10. Cordiners	37	12	20	5 years	46	From 73 10 0 to 126 0 0 according to age.	42 0 0 and upwards according to age.	21 0 0 and upwards according to age.	gressively according to age.	£5 to Incorporation	Heritable.	£11,000
11. Weavers	15	4	..	5 years	12	42 0 0	No Return.	6 12 0	6 12 0	none	Heritable and Moveable.	No Return.
12. Fleshers	14	4	18	6 years	19	none admissible.	60 0 0	40 0 0	40 0 0	none	Heritable Property about £800	yearly.
13. Waulkers	28	17	32	7 years	38	52 10 0	Free apprentices 36 15 0 others 42 0 0	31 10 0	36 15 0	none	Heritable and Moveable.	At present about £1,300
14. Bonnet Makers	24	6	36	6 years	30	42 0 0	16 0 0	8 0 0	8 0 0		,,	About £200.
Barbers††	17	7	7	6 years	20	From 60 0 0 to 80 0 0 according to age.	From 25 0 0 to 42 0 0 according to age.	From 10 0 0 to 30 0 0 according to age.	Same as sons.	5s. to Funds and 5s. to Surgeons.	Heritable and Moveable.	Yield annually at present £236 4s.
Candlemakers††	14	6	14	5 years	12	..	30 0 0	15 0 0	15 0 0	£20	,,	Yield annually £331 9s. 10d.

* Of these, there were 286 Apprentices for the freedom of the City, (5 years' apprenticeship,) and 324 not for the freedom, the duration of whose apprenticeships varied from 3 to 5 years.—At Lammas, 1833, Widows' Fund amounted to £33,826 4s. 9d.

† The Incorporations of Skinners and Furriers have also one presentation to the Merchant Maiden Hospital.

‡ Non-residence arises from nature of the trade, which must be carried on in the neighbourhood of a running water, and privileged to carry on business at Water of Leith by judgment of Court of Session in 1760.

§ This Incorporation, besides a Widows' Scheme, has a fund distinct from its general funds, from which each member, who has contributed to

INCORPORATED TRADES of EDINBURGH.

Rate of Allowance to decayed Members, Widows, and Children, not compulsory.			Number of Pensioners.				Annual Disbursements for Charitable and Educational Purposes.				Managers of Charitable Institutions.					Present to Charitable Institutions.			Number of Prosecutions since 1803.
Members receive.	Widows receive.	Children receive.	Members on Roll.	Widows on Roll.	Children on Roll.	In whole.					Heriot's Hospital.	Trinity Hospital.	Trades' Maiden Hospital.	Orphan Hospital.	Charity Workhouse.	Heriot's Hospital.	Trinity Hospital.	Trades' Maiden Hospital.	
optional	Widows' fund £60	optional	none	Widows' fund 20	3 Families		To Trades' Maiden Hospital, £16 13s. 4d.	University Library, £5 per agreement, £15 in addition optional.					1			none	none	2	none
after 60, from £. s. d. 11 8 10 to 17 18 11½	£25	optional	1 Pensioner and 6 Annuitants.	12	none	19	£25 to Trades' Maiden Hospital, occasional grants for charity—amount uncertain, variable, and dependent upon particular circumstances.						1			none Incorporation.	as an	3	2
£8 per annum.	£8 per annum.	£5 per annum.	1	2	2	5	Trades' Maiden Hospital £. s. d. 33 6 8	Pensions and Allowances, £44.		Allowance for funerals of Members and Widows £2 each.			2			1	4	5†	none
£8	£6	No fixed allowance	5	8	2	15	,,	Pensions and Charities £120 per annum.		Allowance for funerals of Members and Widows £4 4s. each.			1			none	none	6	1
£6	£6	£2	9	62	27	98	..	..	..	£. s. d. 795 2 2			2			no fixed number	fixed	4	18
£14§	£20 of right.	No fixed allowance	2‖	9	none	11	£25 to Trades' Maiden Hospital						1			no fixed number.	occasionally only get persons admitted.	2	during last 14 years 6
From £10 to £15 per annum.	Widows' Fund £40 per annum.	£4 per ann.	Fluctuating				Fluctuating						1			none	none	4	since 1823 4
From £10 to £15.	£15.	¶	11	13	7	31	Trades' Maiden Hospital £. s. d. 8 6 8	Occasional Charity about £5 per annum.	Allowance of Members and Widows, £5	5s. each.			1			none	1	1	3
optional	optional	optional	1	2	..	3	..	..	..	8 6 8			1					1	none
optional	£30	Orphans £30 till 14 years of age.		5	none	**	Trades' Maiden Hospital £. s. d. 8 6 8						1		1			2	none
optional	£12	optional	none		none	none	,,						1		1			1	
No fixed rate.			none	none	none	none	,,						1			none	none	2	1
£7	£5	according to circumstances.	6	14	None at present.	20	Trades' Maiden Hospital £. s. d. 16 13 4						1						3
£13	£15	..	2	6											1				none

With the exception of Barbers and Candlemakers, a share in the management is claimed by the Incorporations.

With the exception of Barbers and Candlemakers, a share in the management is claimed by all the Incorporations.

The Deacon Convener, the President of the Surgeons, and the Deacon of the Weavers, are Governors.

Each Incorporation elects a Delegate as a Governor annually.

it for seven years, is entitled, as a matter of right, to an annuity of £14, upon attaining the age of 55 years. It also gives allowances to superannuated or decayed members from its common funds although under that age.

‖ There are, besides these two superannuated members, 12 members upwards of 55 years of age, who each receive £14 a year from an annuity fund formed in the Incorporation.

¶ If widow alive, £2 yearly for each child under 13. If parents both dead, £15 yearly to a family of three or more children; if less than three, £5 yearly to each.

** Weekly allowances are made to decayed descendants of members, of whom there are six at present. Allowances also made for funerals of members' widows and others.

†† These Incorporations are not represented in the Convenery, and were not represented in the Town Council as formerly constituted.

EDINBURGH.
(*Appx, City Churches.*)

APPENDIX No. V.

I.—RETURN showing the NUMBER of SEATS, LET and UNLET, in the CITY CHURCHES, as at 20th February 1835, on Account of the Year from Martinmas 1834 to Martinmas 1835, and the INCREASE or DECREASE, compared with the Year 1833-34 at a corresponding Date.

		2*s.*		3*s.*		4*s.*		5*s.*		6*s.*		7*s.*		8*s.*		9*s.*		10*s.*		11*s.*		12*s.*		14*s.*		15*s.*		16*s.*		18*s.*		20*s.*		21*s.*		23*s.*		25*s.*		27*s.*6*d*		30*s.*		40*s.*		1834-35. Total.		1833-34. Total.		Of 1834-35. Sittings Let.	
		Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Let.	Unlet.	Increase	Decrease
1	Tolbooth	,,	,,	,,	28	39	18	20	7	6	6	77	26	16	56	47	63	69	81	82	26	64	34	33	45	72	35	203	29	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	61	13	,,	,,	789	467	754	488	35	,,
2	Little	,,	,,	14	2	31	3	15	1	,,	,,	104	6	,,	,,	83	13	73	11	54	2	721	7	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	55	7	,,	,,	,,	,,	,,	,,	1,150	52	1,148	96	2	,,
3	High	,,	,,	,,	42	33	6	50	14	,,	,,	28	56	40	66	54	48	72	49	73	41	80	14	70	3	53	4	317	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	12	,,	,,	870	355	825	452	45	,,
4	Tron	1	48	8	2	2	18	22	4	9	23	30	126	,,	,,	46	74	134	84	,,	,,	,,	,,	,,	,,	30	14	,,	,,	27	27	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	309	420	311	391	,,	2
5	College	,,	41	9	30	11	23	4	41	,,	,,	2	35	5	26	1	39	103	92	,,	,,	180	101	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	315	428	475	206	,,	160
6	Lady Yester's	23	8	41	8	,,	48	12	33	69	117	,,	,,	,,	,,	230	363	,,	,,	,,	,,	,,	,,	,,	,,	3	48	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	378	625	360	541	18	,,
7	Old Greyfriars	,,	,,	,,	35	7	55	28	16	12	18	39	94	53	54	17	25	30	58	6	6	197	12	,,	,,	4	6	,,	,,	,,	,,	,,	,,	16	38	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	409	417	122	578	287	,,
8	New Greyfriars	,,	16	19	57	9	107	44	148	34	60	295	149	6	24	,,	,,	13	17	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	420	578	404	587	16	,,
9	St. Andrew's	,,	,,	,,	,,	,,	,,	14	43	,,	,,	,,	,,	,,	,,	12	52	,,	,,	,,	,,	,,	,,	,,	,,	16	50	,,	,,	135	213	230	132	,,	,,	,,	,,	,,	,,	,,	,,	37	39	,,	,,	444	529	453	590	,,	9
10	St. George's	,,	,,	,,	,,	,,	,,	16	10	43	6	,,	,,	39	1	,,	,,	20	,,	,,	,,	76	4	,,	,,	59	10	,,	,,	182	4	120	,,	178	2	,,	,,	60	,,	618	15	65	2	71	1	1,547	55	1,465	169	82	,,
11	St. Mary's	,,	,,	3	11	98	22	60	8	,,	,,	,,	,,	56	16	,,	,,	71	57	32	40	55	37	,,	,,	51	27	129	117	291	127	96	16	96	46	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	1,038	524	959	633	79	,,
12	St. Stephen's	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	119	1	,,	,,	24	,,	,,	,,	32	,,	,,	,,	133	1	,,	,,	40	,,	375	9	42	,,	52	,,	518	6	73	9	72	12	94	2	1,574	40	1,631	38	,,	57
	Let	24		94		230		285		173		575		334		490		609		247		1,405		103		421		649		675		821		332		52		633		691		235		165		9,243		8,907		564	228
	Unlet		113		215		300		325		230		492		244		677		449		115		209		48		195		146		371		157		86		,,		13		24		78		3		4,490		4,769			
13	Old	,,	79	,,	132	,,	53	,,	30	1	95	,,	10	20	58	,,	,,	35	62	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	,,	56	519			56	
	Total Let	24		94		230		285		174		575		354		490		644		247		1,405		103		421		649		675		821		332		52		633		691		235		165		9,299		8,907		620	
	Total Unlet		192		347		353		355		325		502		302		677		511		115		209		48		195		146		371		157		86		,,		13		24		78		3		5,009		4,769			228
																																																Deduct decrease, as above				228	
																																															Total increase of sittings let, 1834-35				392	

City Chambers, 6th March, 1835.
Prepared and certified by
(Signed) D. J. Robertson, Accountant.

II.—RETURN shewing the REVENUE derived from the CITY CHURCHES for SEAT RENTS for the Year from Martinmas 1834 to Martinmas 1835 at 20th February 1835, compared with the preceding Year at a corresponding Date.

		Revenue for the year 1834-35.			Revenue for the year 1833-34.			Increase on the year 1834-35.			Decrease on the year 1834-35.			Number of sittings let for half year.	Abatement granted to parishioners.		
		£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.		£.	s.	d.
1	Tolbooth . . .	500	1	1	561	18	3	0	0	0	61	17	2	24	2	10	0
2	Little . . .	648	8	6	702	16	0	0	0	0	54	7	6	3	1	16	0
3	High	513	10	6	602	13	6	0	0	0	89	3	0	6	1	14	0
4	Tron	153	4	0	162	6	8	0	0	0	9	2	8	10	0	2	0
5	College . . .	165	2	6	137	2	6	28	0	0	0	0	0	8	0	14	0
6	Lady Yester's .	135	11	6	133	5	6	2	6	0	0	0	0	15	0	0	0
7	Old Greyfriars .	217	12	10	57	13	0	159	19	10	0	0	0	26	1	15	0
8	New Greyfriars .	169	17	6	186	1	11	0	0	0	16	4	5	17	0	0	0
9	St. Andrew's .	424	15	0	463	10	0	0	0	0	38	15	0	,,	0	8	0
10	St. George's . .	1,750	1	3	1,685	0	9	65	0	6	0	0	0	2	2	5	0
11	St. Stephen's .	1,725	7	7	1,785	4	9	0	0	0	59	17	2	,,	3	18	0
12	St. Mary's . .	717	16	2	747	19	0	0	0	0	30	2	10	28	9	17	0
	Totals . .	7,121	8	5	7,225	11	10	255	6	4	359	9	9	139	24	19	0
13	Old	24	17	6	0	0	0	24	17	6	0	0	0	3	0	0	0
	Total revenue from seat rents 1834-35, at 20th Feb. 1835				7,146	5	11										
	Decrease in 1834-35 . .				79	5	11										
	Total increase . .										280	3	10				
	Leaving of decrease as before .										79	5	11				
	Total of the sittings let for the half years .													142			
	Total of the abatement to parishioners														24	19	0

City Chambers, 6th March 1835.

Prepared by me,
(Signed) D. J. Robertson, Accountant.

Note.—Notwithstanding the reduction that was made on the rental of 1834-35, of upwards of £400, were the sums of £15 due by the Merchants and £9 by the Trades' Hospital, the value of seats let for the half year of £22 8*s.*, and the abatement to parishioners £24 19*s.*, added to the above "Total Revenue from Seat Rents 1834-35, at 20th February 1835," the decrease on the year 1834-35 would only amount to £7 18*s.* 11*d.*, compared with the preceding year at a corresponding date.

III.—RETURN shewing the NUMBER of SEATS LET in the CITY CHURCHES to Persons residing in the Ancient Royalty, the Extended Royalty, the West Church Parish, &c. &c.

		Ancient Royalty.	Extended Royalty.	West Church Parish.	Parish of Canongate.	Parish of North Leith.	Parish of South Leith.	Duddingston and other Parishes.	Doubtful, not having the addresses.	Totals.
1	Tolbooth . . .	108	305	240	26	,,	40	,,	70	789
2	Little	90	325	629	17	,,	36	7	46	1,150
3	High	122	301	316	10	1	34	2	84	870
4	Tron	53	126	79	5	2	27	,,	17	309
5	College . . .	12	121	108	15	,,	34	,,	25	315
6	Lady Yester's .	69	49	203	39	,,	1	,,	17	378
7	Old Greyfriars .	75	40	262	6	,,	2	,,	24	409
8	New Greyfriars .	108	25	259	3	,,	,,	,,	25	420
9	St. Andrew's .	,,	356	56	,,	,,	10	1	21	444
10	St. George's . .	11	888	438	2	,,	6	3	199	1,547
11	St. Stephen's .	6	1,156	276	3	,,	13	7	113	1,574
12	St. Mary's . .	10	640	218	3	5	18	1	143	1,038
	Total . .	664	4,332	3,084	129	8	221	21	784	9,243
13	Old	3	14	35	,,	,,	3	,,	1	56
	Total . .	667	4,346	3,119	129	8	224	21	785	9,299
	The number in the "doubtful" column may be allocated thus	60	400	300	10	,,	15	,,	785	,,
	Total . .	727	4,746	3,419	139	8	239	21	,,	9,299

City Chambers, 6th March 1835.

Prepared from the seat rent ledgers, by
(Signed) D. J. Robertson, Accountant.

Note.—From the nature of the Return, and the way in which it was made up, it is probable that some may be classed under the wrong head; generally when there was any doubt as to the residences, they were classed in the column "doubtful," &c.

APPENDIX No. VI.

EVIDENCE

ON THE

PATRONAGE OF THE UNIVERSITY AND PUBLIC SCHOOLS OF EDINBURGH.

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HEADS OF INQUIRY ISSUED BY THE COMMISSIONERS.

REFERRED TO IN THE EVIDENCE OF PROFESSOR TURNER, (p. 375,) AND DR. JOHN THOMSON, (p. 377.)

I. EXERCISE OF PATRONAGE BY TOWN COUNCIL.

1. If beneficially and properly exercised in times past.
2. If expedient that Patronage should continue with Council.
3. If not, what other source of Patronage would you recommend?
4. Or, if to be continued with Council, could the present system be improved by the introduction of checks or otherwise?

e. g. By delaying the Election for a certain term after the vacancy;—and in the meanwhile giving publicity to the occurrence for the information of candidates.

Or, by making it incumbent on the Council to report to the Crown,—to Parliament,—to a local Commission, or other select body, the Election made by them, with the testimonials of the Candidates, and other grounds on which they may have proceeded in the Election.

Or, by giving a Veto to the Crown; or to a local Commission, or other select body.

5. In what respects is your opinion on the above points affected by the recent change in the constitution and election of the Town Council itself?
6. What changes, if any, necessary in consequence of the more popular constitution of the Council, supposing the exercise of Patronage to be left with that body?

II. THE COUNCIL'S POWER OF INTERFERENCE WITH THE INTERNAL REGULATION OF THE UNIVERSITY, WHETHER AS TO THE COURSE OF STUDY OR OTHERWISE.

Whether it has been beneficially exercised hitherto.

Whether it should be taken away, or modified, or subjected to appeal, &c.

Whether the control in such matters would be more beneficially vested in the Senatus Academicus, or in a local Commission or other select body,—or in the Council and Senatus jointly,—or, generally, in what manner would this matter be best disposed of for the interests of Education and the University.

III. THE POWER OF THE COUNCIL TO SUPPRESS, OR SPLIT, OR MULTIPLY PROFESSORSHIPS.

Its expediency, and the past exercise of it.

Or how to be regulated and controlled.

Burgh Commission Office, George-street, Edinburgh,
October, 1833.

EVIDENCE
ON
UNIVERSITY PATRONAGE.

No. I.—*The Rev. Thomas Chalmers, D.D., Professor of Divinity in the University of Edinburgh, examined.*

Examination of Rev. Dr. Chalmers. (21st October 1833.)

No. 1.

Dr. Chalmers.—I do not know a more difficult subject than patronage, and I am not prepared to specify any other mode in which the patronage held by the magistrates and town council of Edinburgh can be better invested than in that body.

. I do not confide in it as an infallible specific for a good exercise of the patronage; but I, at the same time, do not know in whose hands it could be better placed, either for the University or the Church, than in those of the magistrates and town council. I speak on my own observation of what they have done during the last 15 years; within which time they, on the whole, under the control of public opinion, have exercised their right of patronage rightly and purely, and more especially as regards the patronage of the Church. The exercise of patronage in Edinburgh, during the last 15 years, has been quite exemplary, in so far as the churches are concerned.

In how far this character of the city patronage will be affected by the change that has taken place in the constitution of the magistracy and council, I am unable to say. But my opinion of the new constitution is not so decidedly adverse as to found upon it the confident recommendation of a different investiture of the patronage from the present. And then, so far as college patronage is concerned, whatever confidence I might have in a town council as to their exercise of it, I have no great confidence in their fitness for the office of internal or academic regulation. Under the control of public opinion, they might appoint good professors, and yet be altogether incompetent for managing the details of a literary institute. I should like to see a change in this matter, and that we were not so much in the power of the town council, in matters of mere internal regulation, as at this moment—that we were as independent, in this respect, as the other colleges of Scotland.

Mr. Greenshields.—You say that the patronage has been uprightly exercised, so far as you have had an opportunity of knowing?

Dr. Chalmers.—For the last 15 years it has. I think that the patronage in towns has partaken in the general improvement that has taken place in the patronage of the country at large, and has even gone beyond the verage of that improvement. My observation is grounded on what I have witnessed of the exercise of patronage, both in Glasgow and in Edinburgh.

Mr. Greenshields.—There is no local control?

Dr. Chalmers.—The church has a veto on every wrong presentation; and what with my experience of a purer and better exercise of patronage during the last 15 years, along with my conviction that the church has become more alive to the importance of interposing her check when necessary, I do not think that any change of the burgh patronage is, in the mean time, particularly called for.

Mr. Greenshields.—Do you think that the acquiescence of parishioners, or the heads of families, is necessary or expedient as to the call? (*Mr Skene* thought that the general question of patronage did not seem to fall within this part of the commission. *Mr. Thomson* said, that on the subject of ecclesiastical patronage the first statement of Dr. Chalmers was as much as they were called upon to request of him.)

Dr. Chalmers.—Believing that the church will do its duty, I feel no objection that what we call the initiative should continue to be vested, as at present, in the town council. But the power of internal academic regulation ought not to be vested in the town council. This matter came under the attention of the commissioners for the visitation of colleges, though I do not recollect what is the particular arrangement which they have recommended. And neither ought it to be vested absolutely, and without any check, in the Senatus Academicus. It were right that a certain controlling power should be placed in some quarter distinct from the Senatus Academicus, but not in a fluctuating body like a town council, or even in occasional visitors. There might be permanent visitors appointed for the Universities, or we might have a chancellor and rector, both of them extra-professorial, and with such powers as might limit the evils that would ensue from an absolute and irresponsible power of internal regulation being vested in the professors themselves.

Mr. Jameson.—It appears that the principal has no power at all?

Dr. Chalmers.—Very little indeed. I am not aware of any substantial power he has. He convenes and presides over our meetings.

Mr. Jameson.—It seems, I think, to be doubted whether he can go into any of the classes, if the professor should wish to exclude him.

Mr. Skene.—Can you mention some of the instances in which you have felt the power of the magistrates and town council interfering with the affairs of the University?

Dr. Chalmers.—My connexion with the University of Edinburgh is not of long standing, but I am strongly impressed by the incongruity of a town council being absolute in such matters, for example, as the determination of the course of education for degrees—one of those points on which I believe that there has been a good deal of misunderstanding between the town council and the professors.

Mr. Skene.—Are you acquainted with the late change with regard to matriculation fees?

Dr. Chalmers.—So far as I have attended to this subject, I must say that I cannot share in the general antipathy which has been felt about it. In the *first* place, every public functionary should do his duty well; but, in the *second* place, he should be well paid for the doing of it. Now, we have not an adequate revenue for the payment of the librarian and sub-librarians, and for the expenses which the library involves. Our funds are small, and although we obtain from Stationers' Hall all the books which are entered there, we are at the expense of binding the best of these books, and of keeping them in repair. At the same time, we should be able to commission the best foreign books. We have such difficulty with our limited means in making out all these objects, that I do not share in the repugnance which has been felt and expressed against the augmentation in question.

Mr. Skene.—Were the professors consulted by the magistrates before making that augmentation?

Dr. Chalmers.—I am not aware that they were. I was from home at the time, but I think they were not consulted.

EDINBURGH. (*App., Evid. Univ.*)

Mr. Thomson.—The resistance of the Senatus Academicus seems to have originated in the idea that such an augmentation would tend to diminish the attraction of the university?

Dr. Chalmers.—It would operate in that way, I think, to a very small extent. If the thing could be done, it were better that the augmentation took effect only on professional, and not on amateur students. I am aware of the disposition being in favour of the professional students. My view of it is this: so long as the professions are greatly overstocked, that is an intimation to us of the safety wherewith the expense of their University courses might be raised, if any public object is to be gained by it. But while it is not desirable to increase the number of professional students much beyond what is requisite for the full supply of the learned professions, I hold it in the highest degree desirable that the education of a college student be indefinitely extended in general society.

Mr. Greenshields.—Should the visitors be appointed, in your opinion, by the magistrates and town council?

Dr. Chalmers.—I would rather they were appointed by the Crown, and so as to form a body of permanent, rather than of occasional, visitors.

Mr. Greenshields.—There are a great many bursaries. Is the patronage of the bursaries chiefly in the magistrates and council?

Dr. Chalmers.—A good many of them are. I should feel inclined to leave the patronage of these bursaries as it is.

Mr. Greenshields.—As the magistrates and town council are now to be elected, is the patronage, in your opinion, likely to be better exercised, or worse, than formerly?

Dr. Chalmers.—I have no confident anticipations either way. Previous to any change in the frame work, they were getting more and more under the control of the public voice; and I should have felt as secure of the patronage being purely exercised under the old system as under the new.

Mr. Thomson.—Do you think it would be better, if the patronage were vested in persons of dignity and high intelligence, than it now is?

Dr. Chalmers.—I am far from being confident that it would. Allow me to state, that while I consider the town council as not the best quarter in which the power of internal regulation should be placed, it would be wrong to place it without control in the professors. The town council might be a very proper body with whom to entrust academical patronage, yet not a safe body in whom to confide the internal regulation of the College. There might appear an inconsistency in these two opinions, but it is fully supported, I think, by a very obvious analogy. The electors throughout the land might be qualified for the appointment of good parliamentary representatives, yet not be at all qualified for the business of state legislation; and so the magistrates and town council of Edinburgh might be abundantly qualified for the appointment of good professors, yet not be in the least qualified for the business or the details of academic legislation.

No. II.—*The Rev. Alexander Brunton, D.D., Professor of Oriental Languages in the University of Edinburgh, examined.*

Examination of Rev. Dr. A. Brunton. (21st October 1833.)

No. II.

I am not very competent to form an opinion in regard to the patronage possessed by the magistrates and town council in the University; nor do I know where that patronage could be placed, so as to be liable to no objections. The worst body of all to vest it in would be our own body. The Crown, in exercising such patronage, is liable to the objection of not being so well acquainted with local circumstances as the town council. They reside here; and though they are no doubt subject to personal solicitation, I think the control of public opinion has proved, on the whole, a sufficient check. Indeed, I have often wondered that a system so unpromising in theory should have worked so well in practice. I speak, however, with great diffidence on the subject. There is one power connected with this patronage that appears to me more objectionable than any other; that is, the power of creating new chairs. We have made a narrow escape of late, as to the chair of chemistry. It was nearly broken down into two by the town council. Had they carried the resolution proposed to this effect, we should have had two professors teaching the same thing; and, of course, the emoluments of each being greatly diminished, the situations would have become less an object of ambition to distinguished men. Although no evil has yet resulted, I think it would be well to guard against the possibility of its occurring in future. Before new chairs are created by the town council, they should be obliged to take the advice of some literary body, less liable to be misled than they are by the plausible statements which it is easy to frame on such a subject.

Mr. Greenshields.—Did it ever occur to you that a body differently constituted from that of the town council of Edinburgh,—constituted, perhaps, out of existing corporations of distinguished bodies, by delegates, or otherwise,—might be a fit body in whom this power might be vested?

I cannot say that I have ever turned my attention to that point. I have only been accustomed to compare the results of patronage as exercised by the Crown, and as exercised by the town council; and I am not aware that there is any very decided advantage in the one over the other. It is likely that a more fit body might be created than the town council; but public opinion, which reaches them through so many, and, to them, so influential channels, does, I repeat, upon the whole, seem to me to operate as a sufficient check against abuse.

As to the other point,—the power which the town council have in the internal regulation of the University,—I must say much more decidedly that, from the way in which the council is constituted, I cannot consider it safely vested in them. Such a body having power which is new to them, and knowing that they are to have it for a short time only, will, almost inevitably, be over-zealous in its exercise. Points of mere academical detail they cannot fully understand. It may be quite right that we should be liable to control, especially in regard to fees, and perhaps to graduation. But such control would be more fitly entrusted to some *literary* body, unconnected with local interests, or local prejudices; such, perhaps, as the council of the Royal Society of London. In regard to matters of internal regulation in general, we might be left to ourselves.

Mr. Greenshields.—Have the Senatus Academicus experienced much annoyance?

A good deal of late, particularly in questions relating to medical graduation.

Mr. Greenshields.—There is one particular department of which you are most competent to speak, viz. the Library, of which you are the immediate head,—can you give us any information as to the interference of the town council *there*?

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I have not in the least been interfered with by the council in this department till lately, nor at all improperly *then*. I have been, which is quite right, directed, a week ago, to prepare regulations for the management of the Library, and to give information as to printing a catalogue. I had been told that they meant to say, not only a catalogue shall be printed, but it shall be a *catalogue raisonné*. This is a mandate which it would have been nearly impossible to obey. But the mandate is in the most general terms, to report on printing *a* catalogue. This I have accordingly done, according to my own views of the subject.

As to the raising of the salary of the sub-librarians, I think the rise is more than enough. There was no consultation whatever in regard to it, with the University, or with any member of it, so far as I know—certainly not with me, *officially*. I was willing, as it is my duty and pleasure to feel, that the persons employed in the Library should be well paid, but not that they should be over-paid. A committee had been appointed, some time ago, of the deans of faculties on this subject. To them I recommended that the allowance to the senior librarian should be £160 a-year, and to the junior £140. The committee thought this too much. They were, therefore, not a little surprised, when a mandate came from the council fixing the salaries considerably higher. There has been no other interference in this department, except the very proper one of calling for our annual accounts, which are regularly rendered accordingly.

Our means to maintain the Library are not all that we could wish; but they are not very scanty, since the matriculation-fee was raised, first to 10*s.* and aftewards to 12*s.* 6*d.* We can afford to expend about £300 a-year for the purchase of books; and our Stationers' Hall privilege is worth, at least, as much more. Under the new regulation we do not yet know what is to accrue to the Library. The disposable fund will be altogether between £600 and £700; but various objects are understood to be in the view of the patrons for its employment. There is no aid given to the Library from the City's funds, except a salary of £30 to the Librarian, and £10 a-year for coals for the Library.

Mr. Skene.—Did you think it right or wrong to raise the matriculation-fee?

I do not object so much as some of my colleagues do to the raising of the fee, provided good, useful, *academical* purposes were distinctly pointed out for the application of the additional sum.

Mr. Greenshields.—Was the whole of the matriculation-fee appropriated to the Library formerly?

The *matriculation*-fee, strictly so called, was always appropriated to the Library. When I first attended College, it was only 5*s.* Several fees were *then* collected by the janitors. As these were liable both to abuse and evasion, they were ultimately merged in the matriculation-fee, from which such officers are now paid, but with no undue profusion. There were above 1,700 students last session, which, at 12*s.* 6*d.*, made the amount of this fund nearly £1,100. The fee is now to be £1, which will make it £1,700. On the subject of this large and unexplained rise, the Senatus have remonstrated with the town council, but with no effect.

No. III.—*Dr. W. P. Alison, Professor of the Theory of Physic, examined.*

Examination of Dr. W. P. Alison. (21st October 1833.)

No. III.

With regard to the *patronage* which the magistrates and town council possess, they have exercised it, I believe, well. At the same time I may say, that the change which is to take place in the town council is not likely to make them better adapted for its exercise than heretofore; and if any means could be devised by which the patronage could be vested partly in the hands of men possessed of more knowledge of literature and science than the members of the town council are likely, in general, to have, it would be an improvement.

Mr. Thomson.—Do you not conceive that the fitness of the choice of the town council heretofore has very much arisen from the control under which they have been placed by public opinion?

I believe it has very much: I think it has also arisen from this, that formerly the town council has been guided very much by individual members of superior information to the majority. When several professors have been appointed, who have done much credit to the University, it has been by the influence of such individuals.

With regard to the *power* of the town council over the University, the greatest evil is the power which they have over the studies of the young men, and over the conditions under which degrees are given. It would be of the highest importance to the University to have this done away with, or put under control of a different description. It is a power which they did not exercise for a century, till within these few years. It had gone so completely into disuse, that the council did not know that they possessed it, and some individuals, who were leading members of the town council, when it was first talked of, stated that they should be sorry it should become generally known. The shortest way in which I can state my opinion upon this point is, to put this written statement in your possession. Last winter, at the time this Commission was first talked of, I thought it was likely that the Commission would be instructed to take up the subject; and I, and other Professors, were anxious that a representation should be made to Government, to impress on them the importance of the subject, and the propriety of its being taken up by the Commission. I wished the Senatus to have transmitted such a paper as that which I now deliver, but they did not agree to it, as they were not aware that the Commission would be empowered to do any thing in regard to the University.

The substance of that paper is as follows:—

"The object of this application is to draw the attention of his Majesty's Government to the powers which, for some years past, have been exercised by the town council of Edinburgh over the University, not only as to the *patronage of the chairs*, and as to the *care of the public property* there deposited, (which are undoubtedly within the province of the town council,) but also as to the regulation of the *internal discipline* of the University, as to the *courses of study* which are there pursued, and the *conditions under which academical degrees are given.*

"It is, in the first place, necessary to state, that this power of the town council, although occasionally exercised during the early and obscure part of the history of the University, had gone completely into disuse for nearly a century before the year 1825, *i. e.* during the whole time when the University was rising to its highest eminence and celebrity; insomuch, that towards the end of this period, the members of the town council themselves were not aware that they possessed such a power, and when they were advised to claim it on occasion of certain disputes which arose in the year above mentioned, the legal advisers of the Senatus thought that the claim might be successfully resisted in a court of law.

"In the next place, it is to be observed, that although the decision of the Court of Session, (founded chiefly on an old and ambiguously worded Act of James VI.,) was favourable to the pretensions of the town council,—yet a decided opinion was expressed from the Bench, that the *question ought to have been left* (as the Senatus wished it to have been) *to the decision of the royal Commissioners*, who had

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at that time been appointed to visit and report upon the state of the Scottish Universities. And the decided opinion of the Commissioners, as expressed in their Report, is in favour of the *transference of the powers* in question *from the town council to another body*, which they advise to be formed under the title of an University Court.

"As it now appears that Commissioners are about to be appointed to inquire into various matters touching the jurisdiction as well as the constitution of the magistracies of the different royal burghs in Scotland, it is hoped that it may be an instruction to those Commissioners to consider and report specially on the question, whether the power over the internal discipline of the University of Edinburgh, exercised (only for the last few years) by the magistrates of Edinburgh, should be transferred to their successors under the Burgh Reform Bill.

"The only plausible argument that has been urged in favour of the continuance of the state of absolute thraldom and dependence in which the University is now held by the town council is, that, if left entirely to themselves, the professors might be inattentive to the progress of knowledge and the wants of the public; and the University might fail to keep pace with the advances of scientific discovery, and with the improvements and increasing usefulness of other seminaries of education.

"This argument is really of weight when applied to those academical institutions which are richly endowed, and where the teachers are consequently independent of the resort of any considerable number of students; but it is humbly submitted that it is wholly inapplicable to a University in which most of the professors have no salaries, and are wholly dependent for subsistence on the number of their students, and where most of them have no power to grant any privilege to their students, which may not equally be acquired at many other schools. In these circumstances there surely exists an ample security, not only for exertion on the part of the teachers, but likewise for attention to the state of the world, and the wants of the public, and, consequently, for the credit and usefulness of the institution.

"But the professors do not claim for themselves the sole power of regulating the discipline of the University, and the conditions under which degrees are to be there granted. They only assert that the town council is not, and never can be, a body well adapted for the exercise of that power; and the following considerations are respectfully submitted in proof of this assertion.

"1. The town council is a body *expressly chosen for very important but totally different purposes;* its members are, and must be, chosen on account of their knowledge of business and of burgh politics, and of the ordinary duties of civil magistrates; they are accustomed to very different pursuits from those which are followed in the University, and are entrusted by their fellow-citizens with numerous duties, totally different from those which devolve on the persons invested with supreme authority over the studies which are there pursued.

"So much is this the case, that the fact of an uncontrolled power over the studies of the candidates for honours in the University being vested in a body so constituted as the town council is known by the professors to be injurious to the literary and scientific character of this seat of learning.

"2. The town council is *so numerous a body*, that no individual member feels his connexion with the University as imposing a heavy responsibility on him, or can be expected to devote much of his time to studying the questions relative to the discipline of the University, which may, in various ways, be brought before it. The council will be in future, as it has been in former times, guided in these matters by the opinion of individuals, and very probably of individuals whose connexion with other institutions may render it doubtful whether they can be regarded as unbiassed judges of what is done in the University.

"This observation applies particularly to the control over the Medical School in the University, which has been virtually exercised, on several occasions, by the President of the College of Surgeons,—*i. e.* by the head of a very useful and important, but, in several respects, rival establishment,—a control surely as impolitic and unwise as a corresponding power of the University over the College of Surgeons would be.

"The President of the College of Surgeons will not, indeed, be necessarily a member of the reformed town council; but it is highly probable that some of the more active members of that college may have seats in the town council, and may be, as formerly, the chief directors of the council in regard to the affairs of the University.

"3. The town council is *so fluctuating a body*, that the individuals belonging to it, who may have been led to pay careful attention to the concerns of the University in one year, will very generally have retired from their offices, and lost all power in regard to the University, in the next year.

"Without making any reference to the various disputes which have unfortunately arisen, and distracted the attention of the professors from their proper pursuits, during the few years that the town council have thought proper to exercise an unusual control over the University, it is hoped that these general statements will be held sufficient to justify the conviction which the professors entertain, that the interference of the magistrates with the internal discipline of the University cannot be expected to add either dignity, consistency, or wisdom to its councils; but, on the contrary, will prove a permanent source of irritation and jealousy;—that it will act as an obstacle,—certainly not as an auxiliary,—to the views of the professors for the improvement of the University, and may very possibly be perverted to the advancement of the interested views of individuals, to its injury and discredit.

"At the same time, the professors are perfectly aware of the objections that may be stated to their possessing, in their own hands, the exclusive and uncontrolled power of regulating the studies of their pupils, and prescribing the conditions under which degrees are to be given; and several of their number accordingly suggested to the royal Commissioners the propriety of forming an University Court, with power to determine all questions relating to the internal discipline of the University. The plan for constituting such a court which is proposed in the Report of the royal Commissioners, and the very minute inquisitorial powers proposed to be granted to it, appear liable to very serious objections; but no doubt can be entertained, that if the attention of his Majesty's Government is turned to the subject, it will be easy to constitute a University Court, composed of a small number of individuals of known zeal for the interests of science and learning, and well acquainted with the great business of education, by whom all suggestions for the improvement of education in the University, whether proceeding from the professors, the town council, or any other quarter, may be maturely considered, and decided in the manner which may afford the best security for the maintenance of its reputation and usefulness."

Mr. Thomson.—Have you any details as to the troublesome interference of the town council, after they made the discovery that they had such a power?—So many changes have taken place of late years in the University, that I do not know that I can go into the history of them at present. There were

several interferences which I thought unnecessary and vexatious. I think the chief of them were the following:—

1. When the midwifery class was added to the curriculum of medical graduates in 1825, they required that this alone (out of several changes made at that time) should be made imperative *retrospectively*, contrary to the usage of the University.

They made no such demand as to the other additions then made to the curriculum, although one other, at least, (the additional hospital attendance,) was stated by the professors to be more important; and it was the less necessary in regard to the midwifery, as the professor of that subject had been appointed an examiner. Because this demand was resisted by the professors, they raised an action, which they afterwards refused to refer to the decision of the royal Commissioners, and thereby involved the professors in an expense of above £700.

This I consider an act of gross partiality. The effect of it was, that several gentlemen who had completed their studies previously, according to the rules in force at the time they studied, and had afterwards gone into practice, and had expected to be allowed to graduate when it might suit their convenience to return to Edinburgh, were refused degrees unless they studied another winter for the sake of midwifery, even although they had previously studied it privately, and practised it extensively, and were willing to submit to any examination on it.

2. When the professorship of general pathology was instituted by the Crown, they made attendance on that class imperative on graduates, although no such professorship exists in any other British University, and although the opinion of the medical professors was opposed to the addition of that class, imperatively, to the curriculum.

3. When the regius professor of surgery was appointed, they made attendance on his lectures, *exclusively*, imperative on such graduates as should study surgery in Edinburgh, although the professor of anatomy had likewise a commission from them to teach surgery, had taught it for nearly thirty years, and had given, and was willing to give, courses of lectures on it of the same length as the courses of the regius professor.

N.B.—The medical professors approved of the institution of the separate class of surgery, and were willing to make a six months' course of surgery distinct from anatomy imperative on graduates; they only proposed, that during Dr. Monro's lifetime, the students should be at liberty to take their course of surgery from either of the two professors holding commissions to teach surgery in the University, as they might choose.

4. They insisted on appointing a secretary to the University, distinct from the secretary to the Senatus Academicus, and assigning to this newly-constituted secretary the whole emoluments which the secretary appointed by the Senatus used to enjoy; although there was no complaint of the University having suffered from the manner in which the duty of secretary had been previously performed, nor any reason why, if new duties were to be assigned to the office, the secretary appointed by the Senatus might not have performed them.

5. They enacted, that in future no small fees should be taken by professors,—even by those who should have collections or museums to form to illustrate their lectures,—thus placing those professors on a worse footing than others; and further, in a correspondence with Dr. Christison, they intimated that any collections which such professors might make at their own expense, they would be required to leave, as public property, to the University; thus making it a pecuniary object to such professors to form as small collections as possible.

6. They raised the matriculation-fee from 12*s.* 6*d.* to £1, when the professors did not think this addition to the burdens of the students necessary for the purposes to which the matriculation fund is applied; and in so doing, I understand they professed their wish to make the University defray all its own expenses; although at the time when the University gave up its property to the town, it was certainly stipulated that various expenses connected with the University should be defrayed by the town in all time coming, and the University has always been thought of such advantage to the town as to justify some expenditure of the money of the town upon it.

If the supreme power over the University remains with the town council, it is a very easy matter for them, if they have any disposition to do it, to make a good job for a friend of their own, by forming a new chair, and issuing an order upon us to make that class imperative upon the graduates, and a plausible defence of such a measure can easily be got up, so as to prevent any great clamour among the public, who are very partially informed, and partially interested, on such subjects. Lately, a question of this sort arose, whether the chair of chemistry should not be split down into two different professorships, and both would probably have been made imperative on all graduates. We gave our opinion, that there was no occasion for this change for the sake of the medical school, that it was well taught by the present professor, who had, indeed, introduced the teaching of it practically, as well as by lectures. It was only by a majority of one that the proposal was lost. In this way they can load us with professorships, so as to make it scarcely worth the while of a medical man to accept of one of them, with the view of devoting his chief energies to it, and scarcely worth the while of a student to submit to such a burdensome course of study, when he can prepare himself for practice in a manner quite satisfactory to the public at other schools on much easier terms. The principle of subdividing professorships, during the incumbency of the existing professor, to say the least of it, is not fair.

Mr. Skene.—Do you think the separation of chemical teaching in that way advantageous, without reference to Dr. Hope?—It would be forming two professorships of chemistry unnecessarily, and make each of them less valuable, and less an object to any man of eminence. Lecturing on chemistry, and teaching it practically, have been generally and advantageously combined in other schools.

As to the forming of a controlling power to secure a safe administration, in cases of difficulty or difference of opinion, I think the plan of a University Court, proposed by the royal Commissioners, more complex than is necessary. If there were two or three persons appointed by the Senatus, and two or three by the town council, with a chancellor appointed by the Crown, it would, in my opinion, be enough, and form a sufficient court. It is of great importance that their number should not be great, and that their situation should be permanent, so that each should feel a heavy responsibility. In ordinary circumstances, I think the control of the Senatus Academicus over the discipline of the University is sufficient.

Mr. Skene.—Have you formed any opinion as to the late interference of the town council in regard to the matriculation-fee?—I was not well at the time, and unable to attend the meetings of the Senatus upon the subject, but I must say, that I thought there was no occasion for the increase. There was, no doubt, something to be said on both sides; but as to the library fund, for some years past, I do not

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think there was much complaint of its deficiency. There was a loan contracted of £3,000 for putting it in order, on the faith of Reid's legacy, amounting to about £70,000 or £80,000.

As to the medical men who seem likely to be members of the new town council, I do not know that they are such men as we would like to have placed in authority over us, nor such as it is desirable for the credit of the University to have so placed.

No. IV.—*Dr. Robert Christison, Professor of Materia Medica, &c., in the University of Edinburgh, examined.*

Examination of Dr. Christison. (21st October 1833.)

No. IV.

In regard to the patronage, it may be a delicate matter for a professor to give evidence; but at the same time, I am prepared to give my opinion. If the Commission allow me, however, I will advert first to the powers connected with the patronage, on which my mind, and that of almost all the professors, are completely made up.

The Commission are probably aware that, for upwards of a century, no such powers as are at present exercised by the town council were exercised till within the last eight or ten years. Since then they have interfered in an injudicious manner, calculated materially to injure the University as a teaching establishment, and to introduce constant disputes between themselves and the professors. And I feel convinced, that the power of review, or of originating measures in reference to the University, ought not to remain with the town council, whether the patronage remains with it or not. I shall shortly state my reasons.

In the *first* place, the town council is so numerous a body, that the members cannot be supposed to feel, individually, that responsibility, which a small body would feel. In illustration of this, I may mention that I have heard, that members of the town council who were present at meetings of the council, where measures were resolved on relative to the University, have declared that they were ignorant what the measures were. This is easily understood. These measures are agreed upon in the shape of reports by committees, and read hastily in council and passed, and sometimes passed without being read at all, which I have been informed of by members of the council themselves. Thirty-three councillors cannot be expected to feel individually that responsibility which it is desirable should be felt by every member of a court of review over the University.

The next objection which I have to the power of review remaining with the magistrates and town council is an important one, and would almost alone, in my opinion, render them an unfit body for the exercise of such power. They have hitherto been too fluctuating a body, and even under the new constitution will continue so. As soon as any of them begin to acquire some knowledge of University business, they leave the council, and all the information they have thus acquired is lost to the body. The rapid succession of members, so far as I have seen, tends to perpetuate, not their information, but merely their prejudices.

Another objection occurs to me, which applies to the old town council, and I apprehend will apply equally to the new, that in the nature of things, considering the sort of office which a town councillor is called to fill, the council cannot be expected to consist of such persons in station, talent, and education, as will claim much respect generally, in the eyes of the professors, on matters of University business. The principal and professors of the University for the most part occupy, as individuals, a station superior to that of the members of the town council, either as it stands now, or may be expected to stand hereafter; and they are superior in education and general information. It stands to reason, that a governing body, especially one possessing such absolute power as the town council does over us, ought to be composed of persons not inferior in these respects to the governed. I suppose it has been in consequence of this that there has been little community of sentiment between the Senatus Academicus and the patrons of late years. The patrons have, in my opinion, shown a want of courtesy towards the Senatus as a body, and to individual members of it. A very short time after my appointment, in a conference that took place between myself and certain authorized individuals of the council, the treatment I received was such, that had I not laboured under a strong sense of obligation, I should have left the room, and held no further deliberation with them. This is my own feeling; but I know that others of the professors entertain feelings of the same kind of the conduct of the council towards them. The treatment I allude to betrayed a want of courtesy that could scarcely take place were the governing body composed of men of superior station and intelligence.

Another serious objection I have is, that the town council has been, and will continue to be, open to the admission of men who may, and often indeed must, be prejudiced against the University at large, and also in regard to individual professors. This took place under the present *regime*, in one department, the medical. The president of the Royal College of Surgeons is a member of the town council, and the only medical man there. It seems plain that the governing body of the University should not be so constituted, that it may run the risk of falling into the hands of a medical man, and that medical man the head of a rival establishment. The president of the Royal College is no longer to be a town councilman; but there is still a risk of the introduction of medical men into the new council, and medical men, too, not of the first station. This is a point on which I am unwilling to say much. But I think it right to observe, that if I may judge from what is stated in the newspapers, there is a strong probability of some of the members of the new council being medical men. Now I would strongly object to any medical man being a member of the town council, if that body is to retain the power of controlling the Senatus, and of interfering generally, as it has done of late. But, besides, I fear that medical men may obtain admission into the body, from whose known sentiments I should dread the worst effects on the character and success of the University, and whom I, for one, never could look up to with any respect.

I beg to add, in reference to this risk, a circumstance, in my opinion, of no little moment. In my own department, the medical, the town council can enact what regulations they think fit as to education and courses of study, and are not subject to the slightest check. This is not the case in the other departments; for example, the church and the law, the only other great departments in the University. The town council may make what regulations they please regarding divinity education, but the church can overrule them. In the department of the law, also, the regulations rest substantially with the faculty of advocates or writers to the signet. But in the medical department, there is not the slightest check, either by the medical profession or anywhere else. It becomes, therefore, a matter of much importance that medical men, more especially of another establishment, shall be excluded from any control over the University. It is rather remarkable that, for a long time, the only important interferences on the part of the town council, since they began to exercise their powers, were in the medical department.

Another serious objection to the town council being the governing body is, that they are not in general of sufficient weight in society to impose any check on impolitic interference from other quarters—I mean from the Crown. Impolitic interference has taken place on the part of the crown, and this would not, as I conceive, have been so apt to occur, had there been a body of sufficient weight and respectability between the Crown and the Senatus Academicus—I mean a properly constituted University court. If the Crown is to interfere in the internal discipline of the University by summary act, as on some late occasions, it must be guided in these respects by the sentiments of particular individuals, who may often be themselves influenced by self-interest or prejudice. Should any suspicion arise of its interference having thus originated, it is plain that no remonstrance would be effectual from a body whose opinions on such matters are entitled to so little respect as those of a burgh council, nominated for burgh business.

I may here mention three examples of interference on the part of the town council that have occurred during the last 18 months. The first is in regard to museum-fees. In some classes, where the professors are subject to extra expenses from having museums or apparatus to maintain, the students were in the practice of paying small fees for that purpose. I do not speak of small fees generally; I refer to fees paid by the students to maintain certain museums or apparatus for experiments. The town council have abrogated those fees in the case of every late vacancy, and have thus subjected certain professors to much larger expenses than others. In my own class, these fees realized from £40 to £50 a-year, which will not cover the additional expense to which I am subjected beyond those professors who have no museum or apparatus to support. They have been entirely cut off by the town council, without any complaint having been made against them by the students.

Another act of interference within the last 15 months, very injudicious and ungracious to the professors who have museums or apparatus to maintain, is, that they claimed a right to property in all specimens or apparatus added by professors out of their private pockets. While they cut off from the professor of materia medica the fees that went to the support of his museum and apparatus, which involved extra expense, they, at the same time, claim a right of property in all specimens and apparatus added by me at my private expense. They distinctly intimated this to me, but I refused to submit to the exaction.*

The third act of interference is in regard to the matriculation-fees. These they have increased, and one of their reasons for this is, that they may support particular museums. I would say, that it seems far better that each museum should be supported by the individual students connected with it than by the students at large. There are many other reasons why the matriculation-fees ought not to be raised.

In connexion with this, I may also notice the raising of the librarians' salaries to an extent totally uncalled for. Our under-librarians are in the same situation with those in the faculty of advocates, but they are not so long in the library. One of them is to have £230 and the other £150 a-year, while both actually do the same duty. To the late appointment by the town council of a secretary to the University I am not so hostile as some of my colleagues. It ought not, however, to be an office at their pleasure, but a life appointment. So long as they retain their present power over us, the secretary so appointed might be regarded as a spy upon us, and no cordiality would in consequence subsist between the Senatus and him. For this office, there is paid £180 a-year. These are some instances of their interference. I do not allude to other petty interferences; but the frequency of them, and the want of consistency shown by their successive enactments, render these interferences vexatious, and tend to breed ill-will between the two bodies.

The last and most serious objection of all that I have to make is, that, from their habits and education, the town council are most of them unacquainted with literature and science, with education, and systems of education, and with every subject connected with University discipline. The members can acquire little information of University matters during the time they remain in office, and as soon as they acquire it they leave the council. The truth of this objection is proved partly by their actual interferences, and partly by the want of interference.

There was lately an important question before them, the propriety of splitting down the professorship of chemistry into two professorships. On this subject a division took place, and the motion for the change was lost by a majority of only one. The carrying that measure would have been one of the most effectual steps the council could have taken for the ruin of the University. It would have so much reduced the emoluments of the professor of chemistry, that the University could not have commanded, as hitherto, the services of the first chemist in the country in case of a vacancy. I am also convinced that much mischief may have been done in this respect by the narrow division in the council, as it shows that an active canvasser has still a fair chance of success. No chemist of eminence could with prudence become a candidate for an office that is in so uncertain a state. I am assured, and believe, that the proposition will be made again in the new town council.

As an instance of the want of interference, I may mention that the subjects of anatomy and surgery were far too long conjoined in one professorship. This is a matter on which the governing body should have interfered long ago. Every professor in the University is satisfied that there ought long ago to have been a distinct professor of surgery, but no interference in reference to this ever took place till the Crown in 1831 founded a chair of surgery.

The following was another instance where interference on the part of a court of review was in my opinion called for:—About eight years ago, an important change was made in the system of medical education for the degree of doctor of medicine. A great deal of discussion and conflicting opinions were held in the Senatus on this point, and the result was, that the resolutions agreed to were in some important particulars little more than a compromise between the conflicting interests of professors. Here the town council did not interfere. They did, indeed, take some concern in the changes then introduced. But they made no attempt to rectify the errors I allude to; and, in fact, their interference was confined to imposing an additional burden on the students, contrary to the practice of the University and to the wishes of the whole professors but one, and much to the injury and inconvenience of a certain class of students. I refer here to what took place when Dr. Hamilton's class, that of midwifery, was made imperative on candidates for the medical degree. The Senatus very properly made attendance on that class imperative, at the time they made other changes, some equal, some superior in importance. But, according to custom, they proposed to make it imperative on those students only who might commence their medical studies after the promulgation of the new rule. The town council, however,

* For explanation of this part of my evidence, see annexed Statement.

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insisted that the rule in reference to midwifery should be made retrospective—that we should require all students from that period to attend midwifery, whether they had entered the University before or after that regulation was made. It consists with my knowledge, that not a few students have been, in consequence, put to much inconvenience.

These are the principal objections I have to make to the town council as a governing body, or court of review.

I will now speak to the manner in which it appears to me a University court should be formed. I would beg first to point out the great importance of having such a court properly organized. I would deprecate the lodging of the power entirely and ultimately in the hands of the Senatus. There decidedly ought to be a University court, but it is of great importance that it should be properly organized. In illustration of the importance of the points that might come to be decided by such a court, I may mention the question as to the propriety of the introduction of new medical professors into the University, and enforcing the attendance of the students upon new classes. Here a power of control must exist, which affects the pockets of the students, and also often the emoluments of existing professors. It is essential, therefore, that the persons composing such a court, in the event of being called on to interfere on such questions, should be men of education and intelligence, so that the professors may have ample confidence in their judgment.

An instance of subdivision took place within these few years by the Crown, and confirmed by the town council, which it would have been very desirable to have brought before a court of review so constituted. The department of pathology was separated from the course taught by Dr. Alison. I am led to think, from conversations with medical men, who disapproved of it as well as myself, that this subdivision was injurious. The subject was not of such importance as to require being taught by a separate professor, and this is the general sentiment of the medical gentlemen with whom I have conversed upon the subject. I am convinced, from circumstances which have occurred since that appointment, that the new chair could not command even a moderate attendance of students without the aid of the compulsory statute passed in its favour, requiring all candidates for the medical degree to attend it.

It would have been most desirable that the propriety of these measures,—both the founding the professorship, and the making attendance on it compulsory,—had been submitted to the judgment of a University court, composed of men of intelligence and education. A difference of opinion might be conscientiously held by different medical men on such a question; and it is only, therefore, with the decision of such a court of review, that those interested could feel satisfied.

There is at present a question before the Senatus on which I should be glad that our opinion were referred to such a body, viz., whether a preliminary education in arts and physical science should be introduced into our regulations for the medical degree. I am one that would wish to see it introduced gradually. If immediately introduced, and to a material extent, it might lead to the utter ruin of our medical school. Various opinions are entertained in the Senatus on the question, the discussion of which will come on soon, and I greatly fear that we will not come to a satisfactory conclusion.

Another important question, which it would be desirable to subject always to the decision of a well-constituted University court, is the suppression of professorships, when supposed to have been from the first, or to have become, in the course of time, useless.

I beg to observe that I confine my views chiefly to the medical department of the University; partly because I am best acquainted with it, and partly because I consider it as really the most important department to the city, if not to the country at large. The medical students form two-fifths of the whole University, and a large proportion of these come from a distance—from England, Ireland, and even from the Colonies. In reference to this department, it is peculiarly desirable to have a properly constituted University court, because we are now subject to formidable competition in London, Dublin, and on the Continent. More especially must we look to a formidable competition in London, as soon as any body there shall receive from the Government a charter to grant degrees, which, I apprehend, will be very soon.

As to the constitution of a court of review, from what attention I have been able to give the subject, I do not consider there would be much difficulty in forming such a court, with a small number of individuals possessing intelligence and influence. The powers proposed to be conferred on such a court by the late University Royal Commission are too extensive and arbitrary. But a few modifications would render the court proposed by that body an excellent one. I should have such a court to consist of no more than five. I do not wish to see much power in the hands of the professors in the appointment of a University court. The power of election which the late royal Commission proposed to vest in the hands of our graduates, I would rather put in the hands of students, past, or existing, who have been five years at the University. For if in the hands of graduates merely, too much of the power would rest with medical men, who compose an enormous proportion of our graduates. The rector, I think, should be a member of the Bar, because, from habit, and the nature of that profession, a facility of understanding subjects of all kinds is acquired by its members; and, besides, important legal interests would often be involved in questions coming before such a court, and it is therefore desirable that there should be at least one lawyer in the body. The office would be a highly honourable one, and the occasions for business not very frequent, so that I should imagine the first members of the Bar might consider it an honour to hold it. I think there should be only four assessors. I would not have the principal an *ex officio* member, as the royal Commission propose, because I think the professors should return but one member; and it does not follow that the principal would be always, or even often, the best of the body for the office. I would have one assessor appointed by the chancellor, one by the principal and professors, one by the students, the existing students who have been of four or five years' standing, and one by the town council. These would represent every body directly interested in the prosperity of the University, and there would be a large body of electors, who would undoubtedly nominate a fair proportion, at least of men qualified for the office. This is my view of the mode in which a rectorial court should be constituted.

Mr. Greenshields.—Should these, in your opinion, be elected for life, or for a term of years?—For a term of years, but a long one—I would say ten years.

Mr. Skene.—With reference to interference in your internal regulations, are the magistrates and town council generally in the practice of consulting the College at all?—They very seldom now consult the professors. In the matter of raising the matriculation-fees, and the salaries of the librarians, their resolutions were handed to us before we had any notion that such measures were contemplated. The council never asked the opinions of the professors collectively, nor, so far as I am aware, individually.

I heard indirectly that such measures were contemplated, but I had no intimation, as a member of the Senatus, of the council's intentions, till the resolutions were transmitted to us.

Mr. Skene.—Did they require any report as to the state of the library?—No, neither from the Senatus, the curators, nor upper librarian, so far as I know.

Mr. Skene.—Did they ever require any information from the College in regard to the state of the small fees?—In regard to the museum-fees, they received no information; the professors had no communication from them. Some years ago they merely required a list to be given in of the different fees drawn, and the purposes for which they were drawn; but they asked for no information, and got none, as to the propriety of the continuance of these or any of them. In particular, they asked for and received no information in April 1832, when they abrogated them.

Mr. Skene.—You say they handed in to you a communication of what they meant to do as to the matriculation-fees; was it a final resolution?—It was a final resolution. We remonstrated,—they confirmed the resolution. We remonstrated again, and a committee to confer with them was appointed; but they followed up our remonstrance, by again confirming their resolution.

Before proceeding to the next head, I may state, that by acts done, or permitted, the council have withdrawn fees to the amount of £460 a-year, formerly shared by the six old established professorships of medicine. From my own chair, there has been a deduction of at least £150 a-year, within the last two years, about £50 of this having been deducted in the shape of museum-fees.

I may mention another circumstance, shewing the necessity of a University court, in which we can place confidence, viz.,—that in consequence of there being no available fund to defend any question involving the general interests of the University, every act of the town council, however injudicious, will, I am persuaded, be submitted to. The professors subscribed £700 upon a late occasion, to defend the University against an act of the town council, but several have declared they will not do so again; and I, for my part, will not subscribe for any such purpose, because I am sure the subscription would not be anything like general. In this way, we are peculiarly helpless; the town council may do what they please on general matters.

I proceed now to state what I have to say on the question, whether the town council ought to retain the patronage of the University chairs. Some time ago, I thought that, however the power might be lodged, the patronage might continue with the town council. My opinion has of late been materially altered, in consequence of the knowledge I have acquired of the manner in which competitions for vacant offices are carried on. I have great doubts whether the patronage can be vested with safety any longer in the town council, either as it is constituted at present, or is in future to be formed. From the education and habits of its members, and their situation in life, they must, in judging of the qualification of candidates, be dependent on the opinion of others. There is not one councilman in ten, of the councils of late years, qualified to act otherwise, and I do not believe that the new councils will be in a materially different state—that the members will be men of general education, or possess such a knowledge of society, as to be able, generally, to judge for themselves. They must be dependent on the opinion of others, who have themselves no responsibility, and whose opinions may be prejudiced. I have said that the town council is open to the admission of medical men, amongst whom there may be some who are not at all fitted, by character or station in their profession, to be unprejudiced judges of the qualification of candidates; and, above all, medical men may enter the council for the purpose of establishing with the council, as patrons, a connexion which may be useful to them in a subsequent canvass, and which, from what has happened in time past, will, I am sure, give them a very undue and hazardous advantage over other competitors.

Another objection which I would make to the town council having the patronage of the chairs is, that they have been, and must continue to be, too much warped by local connexions. This is important, where the office to be filled up is one for which persons from a distance may become candidates. A candidate from a distance, unless of transcendent qualifications, has no chance in the competition, where he has to encounter the local connexion which may be formed with the council by resident candidates. This is my own decided opinion, and I have reason to know that the same feeling prevails generally,—at least, in regard to the medical chairs.

Another, and the only other serious objection, which occurs to me, is, that the members of the town council are of such a station in society that there has been introduced, what will, I fear, be continued in future, either under the present or new *regime*, a disgusting system of canvassing, which may prevent many persons from entering into a competition at all. I know well that the sentiments of many members of council are undoubtedly formed on conscientious views alone. But the votes of others are obtained on grounds that have no connexion with the qualifications of the candidate; and the practices resorted to on some occasions, to influence the members of council, are such as must offend every man of feeling and principle. It is unnecessary for me to dwell upon this subject. The system is notorious, but, however notorious it may be, the public are not aware of the extent to which it is carried.

Mr. Greenshields.—Should the patronage, in this case, according to your opinion, be lodged in the Crown?—If the Crown were resident in Edinburgh, I would have no objection, but, being at a distance, it is liable to as great objections as the town council. The Minister of the Crown must judge through the medium of others, and these unknown to the public, and who have no responsibility; and he has not any tie of local attachment to lead him to be careful and scrupulous in his choice. I know many of my brethren think it extremely difficult to determine where patronage should be vested, in the event of its being taken out of the hands of the town council. I am also quite sensible that the question is a difficult one; at the same time, I believe, it may be answered. One mode of vesting the patronage has occurred to me, which is analogous to the mode in which the chair of humanity is filled up at present. The patronage of this chair is not in the hands of the town council, but in the hands of delegates from the judges and faculty of advocates, and several other bodies. I would be inclined to invest the whole patronage in a body of a similar nature,—in delegates appointed to exercise the power of nominating to all chairs falling vacant in a given term of years,—for instance, delegates from the faculty of advocates, the writers to the signet, the colleges of physicians and surgeons, the town council, and merchant company. I would not have the elective body to amount to more than seven. Reduce the number, and the feeling of individual responsibility increases. Were the number small, and so nominated, I think there is next to a certainty that the larger portion will be anxious to act for the best, and will never rashly commit themselves, as is often done by a considerable proportion of the council at present. I must say, at the same time, that I see no material objection to invest the patronage in a University court, constituted as formerly explained. I have no objections to the ministern

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of Edinburgh appointing one delegate to the elective body; but, I believe, the public are unwilling that they should have any power in secular affairs. The great object in fixing on an elective body is to choose a body that can with difficulty be jobbed. For this end I would not have delegates chosen to fill up a particular vacancy, but nominated for a term of years to appoint to all chairs falling vacant within that period.

Mr. Greenshields.—Would this put an end to all canvassing?—I should think it would.

Mr. Greenshields.—Would there be any canvassing in the town council to influence their delegate?—This might be attempted there, as well as in the other public bodies; but it is not to be greatly feared, if the delegate is appointed for a term of years,—not for a special vacancy.

November 12, 1833.

Statement by Dr. Christison, explanatory of part of his Declaration before the Burgh Commission.

Nov. 12, 1833.

At the request of one of the Commissioners, I make the following statement, explanatory of my evidence before the Burgh Commission, upon the subject of the right of property claimed by the town council to apparatus and collections in the University.

I feel it necessary to preface my remarks by mentioning that, previous to the winter of 1832, all the professors received small fees of a few shillings, under the name of class dues, and varying in amount. In some instances, the dues so collected exceeded the class expenses; in other instances, where apparatus and museums were to be supported, they fell much short of the actual outlay.

The town council, on 9th October 1826, by a minute, resolved, that these dues should be subjected to "*proper regulation*," they being well aware, that from a "difference in circumstances in regard to the modes in which the different classes require to be taught, a variety in the amount of the class dues ought to be allowed." In the same spirit, the late Royal Commission proposed, as one of the statutes, that "the class dues shall be regulated and fixed by the Senatus Academicus, subject to the control of the University court."

April 23, 1832.

Afterwards, regardless alike of their own previous Act in 1826, and of the authority of the Royal Commission, the town council, stating that the class expenses shall fall on the professors, enacted, "that as each chair becomes vacant, all fees which have not received the sanction of the patrons should cease."

My predecessor, Dr. Duncan, drew a small fee of 4*s.* 6*d.*, 2*s.* for ordinary expenses, and 2*s.* 6*d.* in name of a museum-fee. But the whole sum drawn by him would not do more than pay the class expenses of assistant, servant, fires, and perishable articles.

On my commencing my first course of lectures in 1832, I drew the fee of 4*s.* 6*d.*, as formerly, not being then aware of the Act of Council of 23rd April 1832, requiring the previous sanction of the council to such a fee in any case.

On Dr. Duncan's decease, and my election as his successor, the town council paid £200 to his trustees, to surrender all claim on the museum and apparatus collected by him; and in handing it over to me, they annexed a condition, as stated in my evidence before the Commission, that I should not retain any right of property in specimens or apparatus added by me at my private expense. This fully appears from an Act of Council, where it is stated, that the collection of Dr. Duncan, "with all the additions to be made during his (my) professorship, should be considered as public property, and retained accordingly, for the use of the succeeding professor, without his (Dr. Christison's) heirs being entitled to make any claim on that account."

Report of College Committee, Oct. 22, 1832. Approved in Council Oct. 24, 1832.

When first announced to me, I did not object to this condition, because, as I have just mentioned, I conceived I was entitled to draw, and had accordingly begun to draw, the small fee taken by my predecessor, which would realize, on an average, between £40 and £50 per annum. Although, from the very defective state of the collection in the most expensive department, (that of the analysis of drugs,) and the necessity of replacing the whole glass vessels in the museum, as well as from the plan I contemplated, of introducing practical instruction in the higher departments of pharmaceutic chemistry, I felt well assured that I should have to bear an expense of £100 per annum more than other professors, who have no apparatus or museum, I was ready to make a certain sacrifice.

Having accidentally discovered, however, that I ought not to have drawn the small fee without the previous sanction of the town council, I applied to them to sanction what I had done, as well as the payment of the fee in time to come, on the ground of the materia medica expenses being as heavy as those of perhaps any in the University, except natural history; and, on that condition, I agreed to let all additions made by me, from any channel whatsoever, become public property. The town council, however, desired me to pay the fees taken into the matriculation fund; refused to sanction the subsequent levying of a museum-fee, adding, that even although "the expenses referred to by him were to cost the whole of the £100 which he has estimated as their probable amount, the committee do not see that, under all the circumstances, any great hardship is imposed on him, or that he is placed in more unfavourable circumstances than any of his brethren, whose interest it certainly is to keep the collections necessary for teaching their several classes in as perfect a condition as possible;" and they concluded with requiring from me "an obligation, unfettered by any restriction whatever, in the terms of their former report, approved of by the council on the 24th October."

Report of College Committee of 31st Dec. 1832. Approved in Council Jan. 2, 1833.

In the interval between these two Acts of Council, I was requested to attend a conference with the lord provost and college bailie, Mr. Patterson, as a sub-committee of the college committee of the town council; and on that occasion they stated, that this claim of property was founded on a general principle held by the patrons in regard to college collections; and that, in conformity with this principle, a claim would be laid by the council for my successor to the apparatus and specimens collected by me in my former chair of medical jurisprudence.

That the town council applied the general principle here mentioned to the materia medica collection is obvious, from the two Acts of Council which have been quoted. I cannot refer to similar evidence of a claim of the same kind having been made to the medical jurisprudence collection. But I may observe, that immediately after the conference I drew up a note of what passed, in the shape of a minute, to be inserted in the minutes of the Senatus, to whom I regularly intimated the progress of the negotiation; and the minute accordingly bears, that in the said conference the sub-committee announced to me, that "a claim would be laid by the patrons to the apparatus, &c., collected by me in my former chair of medical jurisprudence, although I explained to them that that collection was formed without any small fee having been drawn, beyond the usual fee charged for general purposes in classes to which no museum is attached,—without any other public fund,—and without any donations." I may add, that

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on receiving the Act of Council of 2nd January, I consulted the present dean of faculty, in a memorial, on all the points of claim mentioned above, and, among the rest, put the question, "Whether the public have any right of property in the apparatus collected for the medical jurisprudence chair?" and I have his reply, to the effect that the patrons have no right to any property acquired by professors at their private expense.

Memorial for Dr. Christison, for the Opinion of Counsel.

At the conference with the sub-committee of the town council I intimated that I would not submit to their demand of a right of property in apparatus, &c., purchased by me; the result of which was, that, although the Act of Council of 24th October 1832 was general and comprehensive, and although the Act of 2nd January 1833 adhered to it in the most unqualified terms, yet the town council professed to regard mine as a special case, and to represent the regulation as a special, not a general one. They state that they "give no opinion on the general question, which is attended with so many difficulties, that they are satisfied the interests of the University would be best consulted by considering each case on its own merits." For my part, I could see no specialty in my case, except that the materia medica class is one of the most expensive in the University. And, accordingly, I intimated to the council, that, in receiving from them the materia medica collection, I was ready "to prepare a catalogue of the collection, to put it in order, and subsequently maintain it as entire as is practicable with a collection of the kind, much of which is necessarily perishable;" and to "consider all donations relative to the subject of materia medica, received by me as professor of that department, to be public property, but that I should, at the same time, consider as my private property, and distinguish by sufficient marks, all specimens, apparatus, &c., which may be purchased by me at my own expense."

Act of Council, Jan. 2, 1833.

Letter to the Lord Provost, 26th Feb. 1833.

I have reason to think that the town council felt they had not legal grounds on which to maintain their claim, although they did not think fit to retract what they had done in my instance. In the last communication received by me from them, they waive the subject by saying, "they do not feel prepared to report on that part of it (my letter of 26th February,) which relates to the museum of materia medica." But in the case of Professor Turner and Professor Forbes, they have distinctly acknowledged the right of property of professors in collections, &c., formed at their own expense. They state, in regard to Professor Forbes's collection, that "as this is proposed to be done solely at his own expense, without any grant being made by the patrons, or fee levied from the students for the purpose, it is reasonable that the council should acknowledge that the collection which may be thus formed shall be considered by them as the private property of the Professor."

Report of College Committee, 9th April, 1833. Approved in Council 10th April, 1833.

Report of College Committee, 17th Jan. 1833. Approved in Council 23d Jan. 1833.

A distinction is here attempted between a new collection, as in Professor Turner's instance, and additions to a collection, as in my own. But no grounds exist for so arbitrary a distinction, especially where these additions, as in the case of the materia medica collection, will be material and expensive.

On succeeding Dr. Duncan, I found it absolutely necessary, for the proper exhibition of the specimens, to replace the whole glass vessels in the museum, which will cost £100. While I was willing to incur this expense, and also to keep up the specimens, many of which are perishable, and to complete the collection where it is defective, viz., in a very expensive department, illustrating the analysis and composition of drugs, I was likewise desirous of opening my apartments to such of my pupils as might wish to pursue practically the study of the higher departments of pharmaceutic chemistry, for which purpose it would have been necessary to provide a paid assistant, as well as several sets of many expensive articles of apparatus. All this I was willing to do, without putting the public to one farthing of expense; and I was also willing to allow every article collected by me in pursuing these objects to be considered public property, provided I were allowed to draw the usual small fee, yielding from £40 to £50 per annum, and of which no student complained. The refusal of the council to sanction this fee, together with their claim to a right of property in whatever I provide at my own expense, has seriously cramped my efforts to improve the teaching of my department in the University. I have not been able to institute the intended system of practical instruction, except on a very limited scale; I have been compelled, for the present, to restrict myself in the purchase of apparatus; I have not been able to fit up more than a third part of the museum; and I have hitherto had no paid assistant. Nor will the Commission wonder at my having been led so to limit my plans, when I inform them that, notwithstanding this limitation, my class expenses during the first year of my incumbency amount to at least £90.

26th April, 1834.

Statement of Interferences on the part of the Town Council with the University since November last, by Dr. Christison.

(April 26, 1834.)

1. A discussion took place in the course of last winter between Dr. Monro and the town council, with regard to the conduct of the practical anatomy courses in the University, and the supply of subjects,—in the course of which differences arose, and proceeded to such a height, that a proposition was entertained by the college committee of the council to nominate a demonstrator of anatomy, independent of the professor of anatomy.

The differences between Dr. Monro and the town council were arranged, and the proposition to establish a separate class of practical anatomy lost in committee. The whole discussion, however, was carried on without communication of any kind with the Senatus, although the subject was of the greatest importance to the whole medical profession, and involved points upon which the town council could not have any information.

2. A return of students attending each medical class was ordered by the town council, unconnected, to the best of the belief of all the professors, with any University business at the time before the council, and at the request of one of the medical members of the council, who is known to them to be associated with a party violently opposed to the University; and immediately afterwards a garbled copy of that return was made use of, by some member of the party in question, in an anonymous publication against the medical school of the University, full of falsehood and abuse.

3. The college committee introduced into the town council, without any previous communication with the Senatus, a set of regulations for admitting the whole students of the University into the natural history museum,—a collection, in a great measure, purchased under the guarantee of the members of Senatus,—and this to the most serious inconvenience of the professor of natural history in teaching his class, to the danger of the collection, and at an expense (£100 per annum, at the very least,) wholly disproportionate to the insignificance of the object, as well as the small amount of the University funds required for more pressing and important purposes.

The Senatus remonstrated against the course pursued by the council, and requested to be heard.

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This was granted. In the mean time, the college committee of the council attempted to negotiate an arrangement with the individual professor; who, however, refused to transact business, except through the medium of the Senatus. This transaction is still going on.

4. The college committee have entertained, without any communication with the Senatus, the question of rescinding the medical curriculum, established last November by the Senatus, and confirmed by the late town council. The measure was taken up at the suggestion of two medical members of the council, one a private lecturer, the other a physician, who has always shown a strong hostility to the medical members of the Senatus.

The question was referred by the council to the Colleges of Physicians and Surgeons for their opinion,—the latter the head of a rival school. The College of Physicians, nevertheless, with one dissentient voice, returned for answer, in decided language, that it was inexpedient for the *College* to take the question into consideration; and the College of Surgeons, also with a single dissentient voice, expressed their opinion in even stronger terms.

But the college committee of the council have followed this up, by resolving to take the opinion of certain individuals of the colleges.

5. For some months back a proposition has been entertained by the college committee, to appoint a separate teacher of practical chemistry.

On the 22nd instant, the committee laid before the council a resolution recommending the institution of such a lectureship; and *on the same day* the council passed the resolution, in opposition to a mere motion for delay.

No communication whatever was held with the Senatus on the subject.

The particulars of this transaction, which virtually amounts to a partitioning of the chemical professorship, and, in the opinion of every well-informed person whose sentiments I have ascertained, is fraught with extreme danger to the University, are worthy of notice, as strongly exemplifying how much a body like the town council is apt to act in misconception and prejudice.

Some years ago Dr. Hope announced in the Senatus his intention to institute courses of instruction in practical chemistry, and at the same time stated that this step, though desirable, would probably reduce the numbers attending the course of systematic chemistry, because many, instead of a second course of that subject, would attend the practical class. Such was actually the result, and to a much greater extent than Dr. Hope could have anticipated,—the number attending the systematic course having fallen from 500 and upwards to 360, which was the number in the session 1832-33.

Dr. Hope's assistant in the practical courses, who was engaged on the most handsome and liberal terms, having gained some popularity among the students, conceived he had acquired, by four years' service, a right to a distinct appointment as professor, and made application to that effect last year to the late town council, who rejected the proposition by a single vote, as stated in my former evidence.

All connexion between Dr. Hope and this gentleman, Dr. Reid, having thus necessarily ceased, Dr. Reid began last November to lecture privately on systematic, as well as practical chemistry. As the most feasible plan of injuring the University classes on these subjects, he adopted the measure of underselling all other teachers; and knowing that his command over the students was chiefly as a practical teacher, he waited till the whole advertisements of the University and private teachers were published, fixing them down to the usual fees of three guineas for each private course, or of four and three guineas in the University, and then announced his intention of charging three guineas for his Practical Chemistry,—*the minor branch*,—and only one guinea for his systematic course, (a course of double the duration) *to those attending his Practical Chemistry*. This charge of one guinea is barely sufficient to pay expenses even with a large class; for the expense of conducting a systematic course of chemistry on a liberal scale cannot be estimated at less than £150, including interest on capital, and tear and wear of apparatus.

Since that time the other private lecturers have been compelled to follow Dr. Reid's example, which they have done most reluctantly, and only after it was found impossible to shake that gentleman's resolution, by conveying to him the decided disapprobation of his conduct by the College of Surgeons. It was impossible, however, for Dr. Hope to imitate them,—such a course being inconsistent with the dignity of the University, and also a very improper precedent, leading to the establishment of a practice most ruinous to the best interests of education,—the practice of underselling.

In these circumstances, it is not wonderful, that as practical chemistry is not a part of the University curriculum, Dr. Hope's practical class has this year dwindled away almost to nothing, although he was fortunate enough to secure an excellent chemist and practised teacher as his assistant, namely, Dr. Anderson, who first taught practical chemistry in this city some years before, as assistant in the University. Having made two successive efforts to establish a class this winter, in November and February,—the practical course being only of three months' duration,—Dr. Hope felt some doubt of the necessity and propriety of repeating the attempt this summer, and this doubt, as appears from the newspaper reports, was communicated by him to the town council. The town council, who for some months *previously*, as I know from undoubted authority, entertained the proposal of appointing a distinct teacher of practical chemistry, and had, in their college committee, long carried on the investigation, without communicating to Dr. Hope their probable intention,—his first information having come from me,—instantly seized upon the pretext of the subject being untaught this summer; and, in the hasty manner mentioned above, resolved to nominate an independent lecturer.

I cannot imagine a more striking instance—looking either to the circumstances in which the transaction has arisen, or its consequences to the University—of the danger of allowing such matters to be regulated by the town council,—a very large majority of whom are necessarily ignorant themselves of the merits of the question, and must rely on the sentiments of others. Of their ignorance, I cannot, perhaps, supply a better proof than by stating their notions of a course of chemistry. Those interested in establishing a new office have laboured to deceive the council into the belief, that the professorship of chemistry is a professorship of the *theory* of the science, while practical chemistry is its *practical* or experimental part. And in face of frequent correction, the council have persisted in talking of the two subjects by way of distinction, as *theoretical* and *practical* chemistry. It need scarcely be observed, that the only difference between lectures on chemistry and on practical chemistry is, that in the former the professor himself displays the practical facts of chemistry to his pupils, while in practical chemistry he teaches *them* to exhibit and investigate them. The two subjects stand in the same relation to one another as anatomy and a course of directions on practical anatomy.

It is very important to add, as a presumption against the division of the chemical chair, that when this measure was before the last town council, the medical professors *unanimously* reported against

it in the strongest terms, and that one of the greatest and most experienced chemists in this country, Dr. Thomson of Glasgow, expressed to me a still more unequivocal condemnation.

The objections to the measure are, briefly, that there is no use for a distinct professor of practical chemistry, as a good assistant, under a professor, is adequate to all that is required, namely, teaching the ordinary practice and manipulations of chemistry, as Dr. Reid did, to classes of from twenty to thirty; that it is impossible to prevent the two classes from being so taught as to become rival classes in all respects;—and, above all, that the emoluments of the chemical chair will be reduced so much, as no longer to be an inducement to qualified persons from England to become candidates. If the proposed separation takes place, they will be inferior, in my opinion, to the emoluments of my own and other classes in the University.

Though I should be mistaken in these views, this does not lessen the force of the objections to the line of conduct pursued by the town council in regulating the whole detail in University matters, either without reference to the professors at all, or only to the particular professor most directly interested. Suppose any individual professor should not be in the right in his communications with the town council, the proper course, undoubtedly, is to enjoin, along with the Senatus, what is proper in itself, and not, on account of any single dispute, to legislate permanently and injuriously for the University. The risk of this being done is, in my opinion, the greatest objection to the powers enjoyed at present by the town council.

I beg leave most earnestly to impress on the Commission the peculiar importance of these considerations at present, when the whole question of medical education throughout the empire is the subject of inquiry before a Committee of the House of Commons, as well as the determination of a proper system for the licence or qualification to practise medicine and surgery. If the power of granting a qualifying degree is vested anywhere in London, it is obvious that this University must, at all events, fall off in numbers considerably, and be prepared to encounter a new and formidable competition. Amidst such difficulties, I have no hesitation in saying that a single bad measure, or one improper appointment to a permanent medical chair, would be almost equivalent to the annihilation of this school of medicine. Already the inducement held out in Edinburgh to professors is much diminished. So lately as my appointment, the professor of materia medica in the London University was a candidate for the chair here; and I know that other eminent men in London looked forward to their becoming candidates upon similar occasions. Matters are now completely changed. But still more, if the present degrading system of ignorant, rash, and even hostile interference, is not soon put an end to, instead of procuring men of eminence from a distance, this city must not be surprised if the men of most promise in this University should turn their ultimate views elsewhere.

7th August, 1834.

(*Further Statement by Dr. Christison.*)

(7th August, 1834.)

In my evidence before the Burgh Commission, I have referred to repeated instances of vexatious and injudicious interference, on the part of the town council, with the internal management of the University; and have stated that the council have so interfered on several occasions, and have passed resolutions without consulting or communicating with the Senatus. The following are fresh instances of the kind, which have occurred since my former evidence was given:—

1. A few months ago, the town council resolved to give the under librarians appointments, as such, during the pleasure of the council, and independent of the librarian, by whom they had been appointed previously, and under whose sole control they were placed. This resolution was passed without any communication whatever either with the Senatus or with the librarian.

2. The town council have recently resolved to compel the regius keeper of the natural history museum to throw that museum open to the whole students, to admit the public at a great reduction of the entrance-money, and to admit, without payment, such persons as may produce orders from the council. This resolution, too, was taken without any communication with the Senatus. Some months ago the Senatus, learning that a measure of the kind was in contemplation by the council, expostulated with them, and proposed a plan for opening the museum to the students, but no answer was returned. And, more lately, the Senatus proposed a conference with the council, with the view of coming to an agreement as to the best mode of opening the museum more liberally than at present, but the conference was declined.

In order to understand the vexatious and injurious nature of this resolution, in all its circumstances, it is necessary to mention, that the council have scarcely any right of property in the collection, and contribute nothing to its support; the collection consisting almost entirely of specimens obtained by the professor of natural history, or accumulated by the Crown, or purchased by the Senatus, at a price of £3,000, for the interest of which certain professors became security. That the present regulations were agreed on in 1820, by a conjunct meeting of all the parties who had an interest in the museum, namely, Professor Jameson, the Crown, the Senatus, and the town council: that the Senatus were, in the first instance, averse to imposing the restriction of entrance-money on admissions to the museum, but consented to the measure, as proposed by the other parties mentioned, on the ground that there was no other way of procuring an annual fund to meet current expenses; that they have always been desirous to render the admission more liberal, but that they are unanimously of opinion that the resolutions passed by the council have been framed in profound ignorance of the circumstances in which the collection is placed, are such as to endanger its safety, and are directed towards an object wholly out of all proportion to the very large additional outlay which must be incurred, and which will fall as a very heavy burden on the general University fund, a fund already too small for accomplishing much more important purposes.

No. V.—*James Pillans, Esq., A.M., Professor of Humanity in the University of Edinburgh, examined.*

Examination of Professor Pillans. (21st October, 1833.)

[No. V.

What opinion have you formed as to the *patronage* of the chairs in the University to which you belong?—It does not appear to me to be placed in the best possible hands. The town council of Edinburgh has hitherto been composed of persons notoriously incapable of judging of the qualifications required for the proper discharge of the duties of a professor in any one of the faculties. They are, on that account, peculiarly liable to be influenced in their selection by political bias,—by motives of personal favour or dislike,—by the intrigues and solicitations of partisans,—and, in the case of candidates on the spot, by a variety of local prepossessions and prejudices. Still less are they likely, from their

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station in life, to appreciate justly the merits and claims of competitors who happen to be nowise connected with the place. The present arrangement has sometimes been defended on the very ground of the acknowledged unfitness of town councillors to judge, because they are thus induced, it is said, in cases of doubt, to have recourse to, and be guided by, the advice of higher parties, such as heads of courts, and persons of official dignity. But this argument seems to me of little weight, not only because one cannot be always sure of such reference, but also because the persons so called in are not always themselves very competent judges, nor exempt from the disturbing influence of local and political feelings. It would not be difficult (however invidious it might be) to quote examples from the history of town council appointments, which tend strongly to confirm these theoretical views. I am of opinion that, whatever weight there may be in the objections just stated to the patronage being vested in the town council, as hitherto constituted, it is not likely to be lessened under the system of election now coming into operation.

In what hands, then, would you propose that the patronage should be lodged?—I conceive that the thing most to be desired, for this and the other Universities of Scotland, would be to lodge the patronage in a minister of public instruction, acting with the assistance and advice of a council of assessors, but on whom, nevertheless, should rest the undivided responsibility before Parliament and the country. Such an officer, residing in the seat of Government, and holding a high rank in the Administration, seems to me, amidst the increasing number and complexity of our social relations, to be indispensable,—not only to relieve the Home Office, already overloaded with business, but to take upon him a class of duties likely to grow more numerous and important every day, and to watch over and improve our educational institutions, from the Universities down to the parish schools.

Do you not consider that such an arrangement would throw too much power into the hands of the Crown?—A jealousy of that kind I should have thought by no means groundless before the passing of the Reform Bill; but since that event, I conceive there is less chance of such appointments being jobbed in the hands of a high and responsible Minister, than in those of any body of men whatsoever. I am the more inclined to this view of the matter in consequence of having observed the happy effects which have resulted from the appointment of a minister of public instruction, with a council, in many of the Continental states, particularly in Prussia.

Is the patronage of all Universities and schools in that country vested in such a minister and council? In regard to schools there are local committees, like our heritors and clergymen, who elect and endow masters. They are all, however, under the superintendence of the minister, who keeps a watchful eye over the working of the system, and who does, in point of fact, often interfere, by his delegates or inspectors, to prevent or rectify abuses. With the Universities, however, the minister acts directly, and appoints on his own responsibility. But, without reasoning further on a state of things which may never be realized in this country, I would say, generally, that I would rather see the patronage of this University transferred to the Crown, than that it should either remain where it has hitherto been, or be vested in the professors themselves, as is the case in some of the Scotch Universities. Perhaps, if a well-constituted University court were once established, it might be desirable, either that it should have the power, after due deliberation and inquiry, to recommend a limited number of candidates, out of which the Crown should elect one; or, *vice versâ*, that the Crown should send down a leet for the court to choose among. It appears to me that the danger which might arise from increasing the influence of the Crown, though certainly not to be overlooked, is, upon the whole, a less formidable evil than that which arises from the ignorance and partialities of any local body of electors. A court resident in the seat of the University may be supposed well acquainted with the merits of men living in its immediate neighbourhood, with whom its members may be on habits of intimacy, but, at the same time, may be comparatively blind to the superior claims of persons moving in a different sphere. Conceiving that improper appointments cannot fail to occur from this cause, I think it desirable that there should be lodged, in some responsible quarter, out of the reach of such influences, a power which might tend to diminish the chance of their recurrence.

How would you propose that the *administration* of the University should be conducted? Do you think it well lodged, where it has long been in the magistrates and council?—The powers with which they have been armed by the last decision of the court are, in my opinion, too ample, and there has been a tendency to use them vexatiously to the professors, and injudiciously as regards the interests of the University. I allude particularly to their interference on one occasion in regulating the curriculum of medical study. The plan of a University court, as recommended by the royal Commission, I am inclined to think a good one, as far as regards the number of its members, the share which the Senatus has in the composition of the body, and the mode of electing the assessors. With regard to the last, however, I should think it better to limit the elective suffrage of graduates to those who shall have taken the degree of M.A., or of B.A., if that degree should be revived, as the royal Commission recommend. I would not admit the degree of M.D. simply as a qualification to vote,—not, at least, till the preliminary education were made more comprehensive than it has hitherto been. But though I entirely approve of the institution of such a court, and of the manner of constituting it suggested in the Report, and should be glad to see the administration of all college affairs transferred to it from the hands of the town council, I am by no means prepared to clothe it with such extensive and irresponsible power as the royal Commission proposes to entrust it with. As to how, and to what extent, that power should be limited, and to what authorities an appeal should lie in particular cases, I do not profess to have formed any opinion. The theory seems to me defective, in not providing for such appeal, but I should not anticipate much practical evil from the want of it.

No. VI.—*Macvey Napier, Esq., Professor of Conveyancing in the University of Edinburgh, examined.*

Examination of Professor Napier. (21st October, 1833.)

No. VI.

In answering the questions that have been put to me by the Commission in regard to the University of Edinburgh, I would beg leave to distinguish between the powers enjoyed by the town council in the creation of new professorships, and in the election of professors, and their powers as legislators for, and rulers of the institution.

I. With regard to the first, I would beg to observe generally, that nothing can look more preposterous in speculation, than the vesting such powers in a body like the town council. Their individual responsibility is frittered away by their numbers; the station of the majority is not such as to make them very sensitive to public censure, or very desirous of public approbation, in the exercise of any refined powers; and, speaking of them as a body, they cannot possibly be supposed to possess the attainments necessary either to judge of the fitness of new professorships, or of the qualifications of the candidates who present themselves for election when vacancies occur. There seems, in a word,

to be a manifest want in this body of the two grand elements of a sound system of academical patronage, namely, of adequate capacity to judge and select, and of adequate security for a righteous exercise of the necessary powers. These essential elements cannot be attained in the requisite degree under any system which either admits of a large number of electors, or of a large admixture of imperfectly educated judges. But though these principles seem to be incontrovertible, it must be admitted, on a view of the history of the University, that it would not be easy to point out any instances of misgovernment in the *creation* of chairs; and that it would be difficult to deny that the power of *election* has, in the great majority of cases, been properly exercised. There have unquestionably, as I think, been some instances of palpable breach of trust in elections, and that, too, on momentous occasions. I mean, therefore, to speak only of the *generality* of cases when I say that the powers vested in the town council have not, in *practice*, proved so detrimental, as they certainly are, in *theory*, objectionable;—that they have not, in a word, been nearly so injurious to the University as any one judging *à priori* must necessarily have expected. Still it is to be recollected that, with regard to the *creation* of new chairs, there was a powerful and efficient check upon misgovernment, in the necessity of making such creations only as could support themselves; and, with respect to *elections*, that it is not easy to separate, in the cases of proper choice, what is fairly ascribable to the wisdom and rectitude of the town council, from what might be owing to circumstances and situations leaving them no option, or means of avoiding, the actual choice made by them. It does not therefore follow, as a matter of course, that, in judging of the system, we are bound to give it credit exclusively for all the creditable acts connected with it.

Having said thus much, generally, I would beg to say comparatively, that, objectionable as this system is, I would greatly prefer it to that where the right of election is vested in professors; and that I would, upon the whole, be inclined to leave it as it is, rather than vest that right simply in the Crown. Professors ought, on every account, to be saved from the cabals, and from the operation of the private interests, which are seen to prevail wherever academical patronage has been entrusted to a professorial divan; and, in the case of the Crown, there are risks from political and other sinister influences, from the multitudinous duties and distractions of office, and from the want of honest and correct information, which more than counterbalance those arising from the seeming incapacity and irresponsibility of the town council. The latter, by being upon the spot, and more in contact with the means of information, are better qualified to act as a *jury*, in collecting the facts necessary to a sound verdict. If, indeed, there was a separate department of the Government entrusted exclusively with the direction and superintendence of all the public establishments for the advancement of education, and constituted upon proper principles, there can be no doubt that, in such case, the patronage of this, and of all other Universities, might be safely vested in the Crown, and would be best disposed of by being so vested; for the Crown would then act through the ministry of a highly enlightened and responsible department, exercising its own special and appropriate functions. Similar securities might be attained by the institution of a *Curatorial Body* for each University; that is, by the nomination of a very small number of competent judges locally connected with the Universities, who should be empowered, for a specified period, to exercise, in regard to each of them, the functions in question. Either of these systems of patronage would be greatly preferable to that now applicable to the University of Edinburgh, and I should rejoice to see the adoption of either the one or the other; but if it should be thought that the town council ought not to be deprived, on grounds *partly* hypothetical, of their present rights, or if there are any separate reasons connected with the revenues appropriated to the University which may be viewed as opposing a bar to the dissevering of the existing connexion, it might still be possible to subject the patronage of the magistrates to regulations compatible at once with its preservation in a substantive form and with the addition of new and important securities to the University. The patronage is a public trust for public purposes; and though there should be objections or difficulties in the way of its resumption, there can be no allowable objection to the interposition of such checks as might contribute to the furtherance of the great objects for which it was bestowed. With this view I am inclined to think that it might be advisable to give the Crown a *negative* in every case of election by the town council. The patronage would still remain substantially with that body. It would only exercise the right under a check not likely to be interposed without urgent occasion. Or, without resorting to the Crown, a small *Curatorial Body* might be instituted, and vested with the privilege of interposing this *veto*; or it might be entrusted to the tribunal to be afterwards mentioned. Should these plans be thought too largely to interfere with existing rights, it might be ordained, with great advantage to the seminary, that the town council should be obliged, in every case when a vacancy occurs, to advertise it publicly and repeatedly; to invite candidates to come forward; and, in no case, to proceed to election till the expiration of a reasonable period from the occurrence of the vacancy. Further, they ought to be ordained, in every case of election, to transmit to the Secretary of State for the Home Department a statement of the facts and principles upon which they proceeded, and by which they were guided in the choice actually made. Looking to the disordered state of the pecuniary concerns of the burgh, it will, in any view, be necessary, if the present plan of patronage and administration shall be continued, to take some securities against the injuries which professors, office-bearers, and bursars may hereafter sustain from the embarrassments of the patrons.

II. With regard to the second branch of this subject, namely, that concerning the powers of the town council to direct the business and to regulate the course of academical instruction, or, in any shape, to legislate in University affairs, I can have no difficulty in declaring my thorough conviction that such powers are wholly unsuited to that body. It would not, for example, be a whit less absurd to give them the power of conferring academical degrees than it is to allow them the power of regulating the *curricula* of study, which are to qualify candidates to aspire to these honours. Nothing can be more ludicrous than the supposition that such a body, however respectable and intelligent in particular callings, is qualified to decide upon points as to which men who devote their lives to intellectual labours are often found widely to differ in opinion. The University has been saved from the consequences that might be expected to flow from such a system, only because the powers which it confers were never, till of late years, actively exercised. Here, too, it is to be observed, that there is not, in regard to such powers, the same checks and guidance as are derived from the expression of public opinion in the case of *elections*. When a vacancy occurs, and different candidates appear, the public attention is awakened, its voice is often loudly expressed, and that voice must, in the main, have a powerful influence. But points of mere academical legislation, though they may be often of great importance to the seminary, cannot, except in rare instances, be thought likely to excite any public feeling; nor can

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the public at large be supposed to be at all times competent and ready to interfere wisely in the adjustment of such points. These considerations seem more than sufficient, whatever may be thought as to the *patronage*, to show the propriety of some considerable change with respect to the *government* of the University. Even in matters appertaining to the ordinary financial administration of the seminary, there is a pressing want of a controlling power. I would beg to refer to some proceedings which took place in the month of October last, (1833,) in illustration of this remark. In the course of that month, the then existing council, when about to be superseded by another, issued an ordinance increasing considerably the fee paid by students at their matriculation, and making some considerable appropriations of the matriculation fund. This was done without any communication whatever with the professors. They were left to the humble duty of remonstrating, in a paper transmitted to the expiring council, which produced no change. It is not necessary for me to say whether the professors were well founded or not in that remonstrance. My object in referring to this occurrence is that simply of showing that, as matters at present stand, financial measures of importance may be decided upon, exclusively and without notice, by a fluctuating body at the last moment of their existence as rulers.

In thus objecting to the continuance in the town council of the powers alluded to, I would not, by any means, wish to be understood as holding that the government of the University ought to be vested exclusively and without control in the Senatus Academicus. I hold, on the contrary, that it would be highly expedient to institute a superintending and controlling body distinct from both. That body, as well as the town council, if its patronage is to be upheld, ought to have the privilege of *suggesting* laws and regulations for the consideration and judgment of the Senatus Academicus: it ought also to have the power of *reviewing* and altering all the decisions and proceedings of the latter; and, further, no law or act ought to have any binding force, except *pro tempore* and in matters of mere discipline, till *sanctioned* by its authority. In this way, the Senatus Academicus would have the primary power of legislating and judging, and I should be inclined to hold this indispensable in order to lessen the risks of crude, and shallow, and vexatious legislation; but there would be sufficient securities against any remissness on its part, as well as remedies for its failures, in the powers of the superintending tribunal.

Not being called upon at present to enter into any details regarding a new constitution for the University, I might content myself, I presume, with the above general statement of my opinions on that subject; but as a constitution for it has been proposed in the late Report on the Scottish Universities by the Royal Commission of Visitation, I shall take leave to add, that I consider that constitution and the University court proposed to be erected as liable to some weighty objections. I would object to a chancellor for life, if vested, as in that plan, with powers, the exercise of which might greatly injure the University. Still more would I object, under such a system of powers, to a rector and assessors to hold office for seven years. Powers which ignorance, presumption, or a meddling disposition might misuse, ought not in this case to be conferred for so long a period. Of the four assessors who, with the rector and principal, are to form the University court, it is proposed that *two* should be named by the chancellor and rector, otherwise clothed with large powers, and not even one exclusively by the professors, who have the strongest interest in the decisions of the intended judicature. Looking to the powers proposed to be conferred upon the functionaries thus elected, I should be somewhat alarmed, though I have always been an advocate for a controlling tribunal or University court, to see them in action. It is proposed, if I do not greatly misunderstand the plan, to give them the power of *originating*, exclusively, all changes and improvements in academical policy and legislation, and of carrying them into effect, if approved by the chancellor, without regard to the opinions of the professors. Farther, it is proposed to give them the power of *directing* the professors in the business of teaching in their several departments. Now, I should consider the interferences on the part of a foreign body, to which such a system would, in all probability, lead, as sure to be productive of heart-burnings and conflicts, and as calculated to repress, rather than to stimulate, the exertions of those on whose willing labours, far more than on any external safeguards, the well-being and credit of the seminary must ever be dependent. Crude laws, as well as overweening interferences, might be expected as natural fruits of the plan in question. It may be possible enough to get two or three persons competent to *control* the proceedings of the Senatus Academicus, in capacity of a *reviewing* and *sanctioning* judicatory; but the authors of the Report seem to have overlooked the difficulty, I might say the impossibility, of finding a set of functionaries, unconnected with the University and acting gratuitously, capable of steadily, wisely, and discreetly discharging the onerous and delicate duties required by their plan. But this is not all. Every professor holds his commission *ad vitam aut culpam*, and cannot, at common law, be deprived of it without a judgment of the regular and supreme tribunals of the land. But, according to the plan in question, the rectorial court—a court undisciplined by established forms, and untrammelled by fixed rules—is to have the power, not merely of *censuring* and *suspending* professors, and thereby depriving them of all reputation and usefulness, but of *annulling* their commissions, and so depriving them of bread, and character to boot. All this may be done without any right, seemingly, to decline this frightful jurisdiction, or to appeal from its judgments. The only check upon these is the chancellor's sanction when they go the length of *deprivation*.

In adverting to the proposed constitution, I cannot but notice one or two of the provisions as to teaching, which its authors wish to make imperative. It is ordained, with respect to a number of classes, that for every hour of *lecturing* there shall be an hour of *examining* whether the subjects discussed in each lecture shall or shall not appear to the professor to furnish matter for an hour of queries! The royal Commissioners have further discovered that every course of lectures, be the subject what it may, and the capacity of the lecturer for selection and condensation what it may, ought to endure for six months; and thus, though a half or a large portion of *some* courses may be occupied with experiments and manipulations, whilst *others* are entirely discursive or didactic, the whole must be adjusted to one standard, in order to avoid sentence of suspension or deprivation in the new court intended to watch over the interests of the University!

There can be no greater error than to suppose that good teaching is to be secured in this fashion, and the circumstance, that such ordinances could be proposed by well-meaning and intelligent men, shows how dangerous it would be to vest persons unpractised in teaching and unskilled in its philosophy with powers to direct and control those who are. The University of Edinburgh has prospered wonderfully in spite of its loose constitution, and the reason is worthy of all remembrance by those who may dream of achieving great improvements by external interferences. Its poorly-salaried professors may be said to be almost wholly dependent on their own talents and exertions; and thus their own interests and natural desire of distinction furnish far stronger motives to employ their talents aright than any positive regulations or censorial superintendence ever could supply. All the improvements in teaching

introduced into this seminary have, accordingly, been the results of individual intelligence and example. I would rather, then, see it left as it is than subjected to plans of questionable promise to its peace and prosperity. There are, however, some advantages to be attained and some evils to be avoided by the formation of a constitution; and, happily, it is quite possible to frame one which, whilst it should be free from the objections chargeable against that proposed by the Royal Commission of Visitation, would be found adequate to effect all the rational objects for which a change is required.

No. VII.—*J. W. Turner, Esq., Professor of Surgery in the University of Edinburgh, examined.*

Examination of Professor Turner. (23d October, 1833.)

No. VII.

My experience as a member of the University has, perhaps, been too short to enable me to form an adequate judgment on these questions. Though I have attended to the subject of them, not having expected to be called on to deliver an opinion with regard to it, and not having particularly examined it lately, I do not feel well prepared to state so clearly and specifically as I could wish the grounds of such opinions as I may entertain with regard to it.

Upon the whole, I believe the University to be in as good and pure a state, in respect of its patronage, as any other in which the patronage is differently placed. It is true that the members of the town council, from their usual avocations and habits of life, and from their education, are not likely, all, or even a majority of them, to be well qualified, individually, to be good judges of the merits of candidates for offices connected with literature and science. But as they may be expected to be men of good sense, as they are accessible to the influence of public opinion, and, in all probability, will be more so under the new system of election, and as they can easily obtain good advice, they may be enabled to form a sound judgment in the choice of professors. And as they must feel a warm interest in the prosperity and character of the University, and have a pride in being entrusted with its management, I believe they would be generally disposed to exercise their patronage fairly and impartially. If we look to the history of the University of Edinburgh, and the men who have filled its chairs, I do not know that there is any other similar institution in which the patronage has been administered more purely and successfully. There have been, no doubt, instances in which the patronage has been generally considered to have been exercised improperly, and others in which great doubts have been entertained of the propriety of the choice, and of the motives which led to it. But these are evils, perhaps, inseparable from the exercise of patronage, in whatever quarter it may be placed; and I am not disposed to think that such instances have been more numerous than in other institutions managed in a different system of patronage, or that it would be easy to devise any other source in which the patronage could be more safely placed than it is at present.

These evils and abuses might, perhaps, be diminished or prevented, if it were provided, that a certain sufficient time must elapse after a vacancy before it can be filled up, and if it were made imperative on the council, in all cases, to report to his Majesty's Government the names of the different candidates, the testimonials they had produced, and the grounds on which the council had proceeded in their choice, provided that this were not permitted to fall, as many good regulations have done, into a mere matter of form. I have heard another plan suggested, which might be still more effectual, that of placing a power of *veto* on appointments in some proper quarter. I conceive that such a power, were it thought advisable to establish it, could not be more properly placed than in the Crown.

As to the power of the magistrates and council in the government of the University, and in the regulation of the courses of study, I would say that a power of this kind, vested in a body constituted like the town council, is more liable to abuse, and to be mismanaged, than the patronage. At the same time, I am not aware that the town council have interfered in many instances, or in any manner prejudicially to the interests of the University. At present, the Senatus have the power of making regulations which are valid, unless the patrons object to them and rescind them. The patrons again may initiate regulations, and render them binding, without consulting the Senatus, or obtaining their concurrence, which I consider an evil. There appears to me to be no objection to the council having the power of initiating regulations, but I think it wrong that they should have the power of passing what they initiate into laws, without consulting the Senatus, and at least possessing themselves of their views on the subject.

A considerable degree of dissension has of late prevailed between the town council and the Senatus. This I am disposed to attribute in a great measure to soreness and irritation, which were excited by discussions that gave rise to a law plea some years ago, with regard to their respective powers and rights, and have since subsisted in both parties, and have disturbed the good understanding that it is desirable should exist between them.

The town council have, I believe, very seldom interfered in the government of the University, except when called on by some member of the Senatus, or some person interested in the matter before them, and they have usually ratified any regulations proposed by the Senatus. I do not believe there would be much disposition on the part of the town council to interfere unnecessarily in the government of the University, and were the unfortunate state of irritation even subsided a little, I have no doubt that the council would be disposed to consult and place confidence in the Senatus and professors, and to give due weight to their opinions.

Within these few days the patrons have interfered in raising the matriculation-fee, without consulting the professors. In the manner of doing this I think they were wrong. Had they communicated their intentions to the Senatus, and their reasons for them, I have no doubt their object would have been equally well attained, and several of the objections to the measure have been obviated. There has also lately been a difference between the Senatus and patrons as to the appointment of a secretary, but had this not involved a question of the right or power of appointing to that office, I believe it might easily have been settled, more to the satisfaction of both parties. But, with regard to the merits in these and other questions between the patrons and Senatus, it appears to me the Commissioners would be best able to judge, by calling for the correspondence that has passed between the parties concerning them. Neither, I believe, has been always in the right.

Perhaps such differences might be remedied by having a court of appeal; no regulation being considered as binding until discussed by both the patrons and the Senatus; and in the event of a difference of opinion arising, either party having a right of appeal to the court invested with the power of deciding between them.

With regard to the University court, as proposed by the Royal Commission of Visitation, in so far as its mode of election goes, I do not recollect it so distinctly as to be able to say whether it be objectionable or not. I should consider it objectionable that all or any of the members should be appointed for life. The chancellor might be appointed for life, if his office be regarded as merely honorary, without any active duties being attached to it.

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I regard the whole constitution, as proposed by that Commission, for the government of the University, as in other respects entirely out of the question. The powers vested in the University court are quite excessive, such as the power of suspending or deposing professors for causes not specified, and without any appeal. It has the power of *originating* and carrying into effect *all* improvements in the system of the University. According to this constitution, the Lord Provost, the magistrates and council, the founders of the University, and who have supported it by the funds at their disposal, are treated in a manner not very consistent with these claims, as they are merely mentioned as being entitled to be present at University meetings with the graduates and students, in places assigned to them respectively by the University court. The Senatus Academicus is invested with no power, except the regulation of the discipline of the University, and, even in this, their decisions are subject to appeal in all cases of importance; and the University court has the power of enacting and enforcing *all* regulations with regard to the mode of teaching in the University. The Senatus has no power given to it of initiating improvements or regulations.

I conceive it to be quite essential that the Senatus should have the power of initiating new regulations. At the same time, I am satisfied, that a power of initiating should also exist in some other quarter, and that there should be a power of control over the Senatus in making regulations. I believe this power might be continued safely as it is at present, in the patrons of the University, provided they were bound in all cases to consult the Senatus before enacting any regulations for the government of the University, and that it might be advantageous that a Court of Appeal were established, to which, in cases of difference of opinion, either party might appeal, and whose decision should be binding on both. I think a Court of Appeal, satisfactory to both parties, might be devised without difficulty. If it were properly gone about, I do not believe the town council would object to the institution of such a court.

I am of opinion that a large infusion of medical men into the town council would be very prejudicial in relation to the University. As the council is to be now constituted, if the respectable part of the community do their duty in taking a share in the elections, I have no doubt the new system will work well. I doubt if it will be so injurious in relation to the University as some persons fear. The members, I cannot doubt, will act like reasonable beings, when they have an important charge confided to them, for the fulfilment of which they must feel responsible to their fellow-citizens.

Mr. Cuninghame.—Would it affect your opinion as to the propriety of continuing the patronage of the University in the town council that any considerable proportion of the councillors were composed of medical practitioners, looking to the number of medical chairs established in the college?—It would certainly. There would be canvassing by medical men, for the purpose of getting into the council, and so influencing the election of themselves or others to chairs; and, in the government of the University, there would be a risk that they might act under the influence of interests different from, or inconsistent with, those of the University.

No. VIII.—*Dr. Thomas Charles Hope, Professor of Chemistry in the University of Edinburgh, examined.*

Examination of Dr. Thos. Chas. Hope. (23d October, 1833.)

1st Part.

No. VIII.

Dr. Hope stated, that he would not be disposed to give an off-hand opinion on any important point connected with this subject. The question as to the operation of the system he was prepared to speak to, having been before his eyes for 30 or 40 years; and he would be the last man who would have any thing to say against the exercise of the patronage of the town council. To that patronage he owed the situation which he had the honour to hold; and trusting that he had done his duty, he thought they had not done amiss; nor, speaking conscientiously, he did not think that they had done amiss in any one instance, but, on the contrary, had very faithfully discharged their duty. As he was desirous to turn the subject of inquiry over in his mind, he begged he might be put in possession of the questions, to which he would afterwards give more precise answers.

No. IX.—*George Dunbar, Esq., A.M., Professor of Greek in the University of Edinburgh, examined.*

Examination of Professor Dunbar. (23d October, 1833.)

No. IX.

I should think that the patronage of the University, having been so long vested in the town council, might still be continued in that body, but under checks. I do not know what the most proper checks would be, but I am certainly of opinion that there ought to be some control upon their patronage. Perhaps if the University were to obtain a constitution, of which it is in great need, those who might be appointed to administer the constitution might be the most proper check on the patronage exercised by the magistrates. There ought to be a check against instituting new classes, without some strong and valid reason assigned, and also against adding new classes to the curriculum. Some of the professors think that this has been carried too far, not in the arts, but in medicine. Within these few years a great number of classes have been added to the medical curriculum.

Mr. Thomson.—By a constitution, do you mean the creation of a new court hitherto unknown?—I consider that the University at present has no constitution,—the professors are under the control of the magistrates. Of late years, the powers of the professors have been abridged, and they are controlled by the authority of the magistrates and town council, so that at present I conceive the University to have no constitution.

Mr. Thomson.—Is it not a constitution that the Senatus Academicus have the power of enacting regulations, and which, if not rescinded by the town council, are effective in their operation; but you are liable to control, which amounts to a negative on your proceedings?—I understand that to be the state of matters. Besides, the council have the power of originating measures unknown to the Senatus, and enforcing them if they choose. This is our present constitution, if it can be called one. When I spoke of a constitution, I referred to that pointed out by the royal Commissioners. I see nothing to prevent it from being carried into effect. I think all interests would be represented, the Crown, the town council, the Senatus, and the public. I would object to some of the powers which they propose to put into the hands of the chancellor, rector, and assessors, because they seem to me too great, and inconsistent with the liberty of the subject. In other respects, I conceive that that constitution would work well and be of great advantage to the University. To a court so constituted, there might be appeals from the Senatus, the town council, and the students. They would be on the spot, and perceive everything that is going on. As far as University matters are concerned, the regulations should originate with the Senatus; but the court should have a control over these measures if any complaints were made against them. As to the mode in which the patronage has been exercised,

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I would say that no great objection can be made to it, but it would be better under some kind of control. This might be done in two ways:—*First*, the University court might select three or four out of the candidates for an office, and leave the town council to make the selection for the chair; or, the town council might select three or four of the candidates, and allow the University court to decide—the first, perhaps, would be the better mode. For the sake of the University, I think the sooner matters are changed the better. As to the ordinary administration, I know that the interferences of the town council have been vexatious, and I am quite sure they have been injurious. They have of late originated some measures with regard to the matriculation-fee, which the professors think disadvantageous and injurious to the University, because the students at no other college in Scotland pay anything like the amount. In the most of them, the fee is not above 5*s.*; in some of them, only 2*s.* 6*d.* No doubt, their libraries are not so extensive; but the students derive advantage from them. The mode proposed of appropriating the fund thus collected is highly objectionable. The Senatus endeavoured to convince the magistrates of the impropriety of the measure, but without effect. They made written remonstrances on the subject, which were disregarded. The magistrates did not communicate with the Senatus before sending their resolution, which they did through the secretary of the University, (an appointment quite unnecessary, and a burden on the establishment,) to see it carried into effect. After it was transmitted to the Senatus, they remonstrated against it, as being uncalled for, and as imposing a heavy burden upon the students. A committee was appointed to communicate with the patrons, of which I was one, but we were unable to make any impression on them. In the attempts to split existing chairs, the Senatus were consulted with regard to some of them. In regard to others, they were not. With regard to a proposed chair of practical chemistry, they consulted the Senatus, who remitted the matter to the medical faculty. They gave their opinion against it, and the Senatus agreed in this opinion. In the appointment of the chairs of pathology, of surgery, and of clinical surgery, the Senatus were not consulted at all; nor were their opinions asked if they should be added to the curriculum. They were all appointments of the Crown, and the two first were added to the curriculum by the authority of the patrons. The last was appointed about 30 years ago, but it is only of late that it was added to the medical curriculum. I conceive that a body like the town council, educated as they are, and from their habits of life and avocations, cannot be acquainted with the state of literature and science in the country so as to be qualified to make appointments of that kind without some check or control. The sound administration of their patronage heretofore may be thus accounted for:—they have been under the control of public opinion, and have taken the advice of men who were better able to judge than themselves. I do not think that any member of the Senatus wishes to have anything to do with the patronage, or with the administration of the funds, but I believe every one of them thinks that there should be some check over the patrons in the exercise of both. The discipline of the University ought not to be left to the arbitrary rule of the town council. In this respect, they have interfered in but few instances for the last century; but I do not know what they may do, and they have not renounced their right to interfere. I look upon it as a very injurious and dangerous measure to interfere with a professor in the discipline of his own class, or with the general discipline of the University. I am of opinion that a certain period should elapse between a vacancy and the choice of a professor, but I do not know how long. If a professor should die in the middle or at the commencement of his course, the sooner, perhaps, the chair was filled up the better.

Might it have some effect, also, to compel them to give publicity as to the grounds on which they proceeded in their choice by transmitting to Parliament the names of the candidates and their testimonials, and stating the reasons of their choice?—I cannot conceive that any good could result by transmitting to Parliament the names of the candidates, their testimonials, and reasons which induced the patrons to make their choice. This would lead to great inconvenience, and would, in fact, constitute Parliament as the patrons. As matters have hitherto been conducted, at least of late years, the testimonials of candidates have been printed and laid before the public, and the patrons have generally assigned reasons for their choice, which were also made known to the public. I do not think that the transference of patronage to the Crown would be an improvement, as the secretary of state is at too great a distance, and generally too little acquainted with the Scottish Universities to know and judge, except through interested mediums, the claims of the different candidates. Some are of opinion that a minister of public instruction, as exists in many parts of the Continent, might be of advantage; but I think a local court would be much better. I have not considered very attentively the constitutions of the foreign Universities, and the sort of influence exercised over them by such a minister. The professors, I believe, are all appointed by the Government, and completely under its control. The systems of the foreign Universities are totally different from ours. I do not know what may be the effect of the probable working of the new elections, but I must confess that I do not expect much good from them. Every corporation, however chosen, is tenacious of authority, and not very scrupulous in the mode of exercising it. The successors of the present magistrates are not likely to be behind them in their attempts at innovations. I rather suspect they will go far beyond them, and I tremble for the welfare of the University, lying as it does at present at the mercy of the town council, if it shall be made the subject of rash experiments, ill-digested regulations, and perpetual harassment. Whoever wishes well to its future prosperity should endeavour to rescue it from an intolerable thraldom, and place it upon a footing with the other Universities in the country in the enjoyment of a constitution, to which, from its rank and character, I consider it to have a legitimate claim. It is a disgrace to the Government to have allowed the unrestricted domination of such a body as the town council of Edinburgh to exist so long over the University, especially after the decision of the court of session in favour of the magistrates' claims. And I have no hesitation in stating it as my opinion, that from the period of that decision the University has suffered in dignity, in character, and in usefulness.

No. X.—*Answers by Dr. John Thomson, Professor of Pathology in the University of Edinburgh, to Heads of Inquiry.*

Dr. John Thomson. (Oct. 26, 1833.)

No. X.

I.—1. I think it can be shown, by a reference to the history of this University, to the number of men of distinguished learning and science who have filled its chairs, and the high place it has held among other similar institutions in this and other countries, that the patronage of the town council has in times past been, upon the whole, beneficially and properly exercised. It is, no doubt, true, that this patronage has occasionally shared in that misapplication to which so much of the public patronage in Scotland has hitherto been subjected, the being rendered subservient to the political aggrandisement of particular families, by the rewarding of their adherents. But in several instances,

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and some of them belonging to our own times, public opinion has obtained a very gratifying triumph over political interests, chiefly, I believe, through the influence of the more popularly constituted part of the council,—I mean the representatives of the trades.

2, 3. I entertain no doubt of the expediency of the patronage being continued with the town council, from my not being able to conceive any other source of patronage more likely to be under the guidance of sound public opinion. In particular I think it highly inexpedient that the patronage of a University should be lodged in the professors themselves. And I am disposed to think that such patronage, as exercised by the Crown, is more exposed to prejudicial influences, and less subject to salutary control, than as exercised by the town council, the members of which live on the spot, where a proper choice of professors must of necessity be an object of great general interest, and the daily subject of conversation.

4. I have no doubt of the propriety of public notice being given by the town council of the occurrence of any vacancy in the University, and of a fixed period of time being allowed to intervene between the giving of this notice and the nomination to the vacant chair. But I confess I do not see much prospect of benefit from any report of the kind referred to being required of the town council as to the exercise of their patronage, or from lodging a veto to their nominations with any other power. Indeed, I should consider it more expedient to devolve the whole responsibility of their appointments on the council themselves, than to allow them to share that responsibility with other bodies.

5. I cannot but anticipate that the effect of the recent change in the constitution and election of the town council will be to give greater weight in the patronage of the University, as in other civic affairs, to the opinions of the well-informed classes of the community; and in that respect I feel confirmed in the opinion which I entertained, even under the old system of burgh government, that the patronage of the University cannot be lodged in any hands with a fairer chance of its being beneficially exercised than in those of the town council.

6. On these grounds, I do not consider that any changes will be required in the exercise of this patronage by the town council, in consequence of its more popular constitution.

II. My opinion respecting the town council's power of interference with the internal regulation of the University corresponds very much with that which I have expressed relative to their patronage,—that there is reason to expect that it will be exercised with a view to public advantage, and under the salutary control of public opinion. In the few instances in which this interference has of late years been exercised, I believe it has, in general, been beneficial. As instances connected with the medical department of the University, I may mention their preventing the raising of the graduation fee in 1809, their adding the midwifery class to the medical curriculum, and their throwing open to students the anatomical museum. It may, I think, be expected that the town council, though left in possession of this power of interference, will, for the most part, leave it to the professors to suggest and enact such improvements in the course of study, &c., as appear to them expedient; and will interfere to control their proceedings only in case they should seem to be influenced by considerations of private interest, rather than of public benefit. All I know of Universities convinces me that such a control should be lodged somewhere; and though I am aware that there is an apparent incongruity in giving the control over a body of learned men, in matters relative to education, to a Board which must necessarily consist of men selected for their habits of business, and not for their learning or science, I am not myself apprehensive of prejudicial results. Indeed, I believe it is well known from history, that the greatest encouragers of learning and science have not always been themselves learned or scientific men.

As to the proposal of establishing a local commission, or other select body, as a board of control over the proceedings of the professors and patrons of the University, it would certainly be desirable to prevent the recurrence of such unseemly disputes between the patrons and professors as led to the late action of declarator before the Court of Session. But it may, perhaps, be questionable, whether the existence of a court of appeal would operate *prejudicially* in this respect, by encouraging the professors to resist the wishes of the patrons, or *beneficially*, by rendering both parties careful in adopting resolutions, the grounds of which might undergo review before such a court. I am disposed to hope, too, that when the irritation shall have subsided which has arisen out of the late law-plea, and of the measures which the town council have thought it necessary to take in order to establish the authority which the decision in that case declared them legally to possess, similar disputes will be less likely to arise.

If, however, the establishment of a court of appeal should be thought advisable, a simpler constitution might perhaps be devised than that suggested by the Commission for Visiting the Universities of Scotland. There are obviously four interests which ought to be represented in such a court, those of the Crown, the patrons, the professors, and the students, and it would seem sufficient that each party should appoint a commissioner to watch its particular interests. If any limitation on the choice of these parties were considered desirable, the best, perhaps, would be, that none of the three last should appoint one of their own number as their commissioner, and that the representative of the students should be chosen either by the more advanced classes, such as masters of art, or by the graduates alone.

III.—The University appears to me to have sustained more injury from the difficulties experienced in getting new professorships instituted, than from any tendency to multiply these unnecessarily. These difficulties have in a great measure arisen from the interest, more frequently imaginary than real, of those already holding chairs, to prevent any increase in the number of competitors for the favour of voluntary students, and their apprehension that an extension of the course of study imposed on compulsory students would diminish the number coming to the University.

On these occasions the existing professors have always been ready to maintain that the branch of study for which a new professorship was proposed was already taught, either by some individual member of their body, or at least by several members collectively. It was on grounds of this kind that the institution of the chair which I have myself the honour to fill was, a short time ago, opposed by the Senatus Academicus. In the answer to the objections of the Senatus which I had occasion to submit to the town council, I took occasion to remark, that, "For the opposition offered on the part of the Senatus Academicus to the two new professorships of general pathology and surgery, I was by no means unprepared. The late Professor Stewart has observed, that 'the academical establishments in some parts of Europe are not without their use to the historian of the human mind. Immoveably moored to the same station by the strength of their cables, and the weight of their anchors, they enable him to measure the rapidity of the current by which the rest of the world are borne along.' I

have had too frequent occasion, in the course of a life, a considerable portion of which has been devoted to the business of teaching medicine, to notice the unfortunate tendency in our academical institutions to remain stationary, which has been so happily described by Mr. Stewart, to feel any great degree of disappointment or mortification at a resistance being made to my humble endeavours to promote the improvement of medical education at this University. Indeed, in a short pamphlet which I took the liberty to submit to the consideration of the patrons and professors of the University in 1826, for the purpose of drawing their attention to the advantages which might result to the medical school from the institution of separate professorships of surgery and clinical medicine, I ventured to make the following prediction:—

"That a proposal for adding two new professors to the Senatus Academicus will be approved of by all those who have already obtained admission into that body, it would be too much to expect. The resistance which has been already so frequently made to the introduction of teachers of the different branches of surgery into the University, even when these attempts proceeded from, and were seconded by, the College of Surgeons; the long-continued, though ultimately unsuccessful opposition to the establishment of a professorship of conveyancing, notwithstanding the strong support which this measure received from the Society of Writers to the Signet; the success with which the establishment of chairs for teaching political economy and comparative anatomy, and veterinary medicine, has hitherto been resisted, notwithstanding the liberal offer of a body of private individuals in the one case, and of the Highland Society in the other, to endow these chairs, and the difficulty which was so lately experienced in convincing the Senatus Academicus of the propriety of adding the midwifery class to the medical curriculum, fully evince how difficult it is, even for what must be considered as a body of the best educated men in the country, to witness, without jealousy, the extension of the same privileges to others, of which they themselves are already possessed."

I think that the final judgment as to the propriety of instituting or of suppressing professorships in our Universities would at all times be most safely exercised by the Crown. It might be proper that the Crown did not take any step of this kind without an opportunity being first given to the professors and town council, as well as to the court of review, should the creation of such a court be deemed proper, to state their opinions as to its expediency.

For the reasons already assigned I am disposed to believe that the patronage of chairs in the University, when once instituted by the Crown, will be best vested in the town council.

No. XI.—*The Right Hon. John Learmonth, Lord Provost of the City of Edinburgh, examined.*

Examination of Lord Provost Learmonth. (26th Oct. 1833.)

No. XI.

The right of patronage seems to me to be well vested where it is, and I should say that it has in general been very well exercised. As the town council has been hitherto constituted, the provost had considerable influence with the council; but I suspect that influence will be hereafter very much diminished, as men will now be independently chosen. I am not inclined, however, to think that the patronage will be worse exercised than it has been formerly. More freedom of opinion will be exercised by all the members. Hitherto they may have been somewhat influenced by political feeling. Whether this may be diminished or not, I cannot say; but I have no doubt that the patronage will be far better exercised by the town council than by the Crown. If you could imagine some other body, that is a different question; but of the two, I should say that the town council are unquestionably better judges than the advisers of the Crown, and must be amenable to public opinion here. The Crown would be as much, or more, subject to political influence than the town council. The University is just now, perhaps, in a state of mediocrity: it has, with one or two exceptions, no striking characters. We are there living on our past, not on our present state of celebrity; but still my opinion is that the patronage is well exercised.

Should there be any check, such as a veto lodged in some body,—or oblige the town council to report to the Crown the principles upon which they proceeded in the election?—I much doubt that. I should think it a control which I could not submit to. I cannot imagine a case in which it would be possible for them to interfere. The Crown has surrendered the chairs of pathology and surgery to the magistrates, and I am of opinion that the Crown should surrender them all. The chairs are not now what they were 30 years ago. The system of education has been much improved. When the natural philosophy class was taught by Professor Playfair, for example, it was attended by not more than 130 or 140 students. Now, it is a class attended by about 300. I would be decidedly against removing the patronage from the town council, or that they should be interfered with, till you get some *body* of persons better fitted to exercise it; and I cannot consider that there is any better body. The town council are not in general of that rank to disregard the advice and opinion of those who are able to judge. They must be guided either by the advice of persons of superior minds out of the council or by public opinion. I would not recommend any change to be made in that respect.

As to the business of the University, are the powers assumed by the town council, in the ordinary administration of the University, well vested?—A committee of the town council is appointed to manage the business, the college bailie being the convener. I think it is better managed than it would be by the professors themselves. Except there is a paramount authority somewhere, I do not see how matters could go on.

Could there not be a court of appeal to regulate differences of opinion between the magistrates and the Senatus without changing the system in any other respect?—This would be placing a king over us, which would never do at all.

Do you think that a body extraneous to both, a sort of oversman, or set of oversmen, should be appointed with a view of reconciling unseemly jars, such as exist at this moment?—I am unwilling to admit that the government of the University has not hitherto been well conducted. If it *has* been well administered, why change it? I do not see where you would find perfection, were you to remove this power anywhere else. The professors would lose all respect for the patrons if there was such a control. In that case, the parties would be obliged to plead their case. I do not see that the magistrates and council can be improperly influenced by anything. I have never been influenced by anything in the discharge of my duty, and have always taken what appeared to me the best and wisest course. I must say the same of my colleagues. We have no wish to go contrary to the opinion of the professors, but I have often felt my colleagues interfered with too much by the professors.

You have the power of originating and passing measures without the consent of the professors; now, has it been the practice of the patrons previously to consult the professors?—It has been the practice with an exception or two; generally speaking, there is no exception. The town council is in the habit

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of transmitting what is proposed to be done to the Senatus, and requesting their opinion of the measure. This is generally followed by a conference, and if there is a difference of opinion, we retire and make up our minds. My opinion is, that the professors possess too much influence over the opinions of the councillors.

Was any communication made to them about the matriculation-fee?—Not this year: it originated in the town council this year because it was debated last year, when the patrons and professors had various communications on the subject. This is the reason that we did not previously communicate with the Senatus this year. We had made up our minds, and we knew that the professors would not give their consent, and that it would be vain to ask it. The professors sought an interview before it was finally closed by the town council. We had then a conference, but the minds of the town council were not thereby altered, and experience, I think, will prove that the town council were right.

You have a college committee; if that committee are not competent to judge of the qualification of candidates, what sort of advice are you in the practice of receiving elsewhere to enable you to exercise your power?—In regard to the appointment of professors, the practice is to consult men qualified to judge; but in regard to the power of regulation, the council think that they are more competent to judge, particularly in pecuniary regulations, than any other parties. With regard to the curriculum, we have seldom interfered at all. The opinion of the Senatus is almost always held paramount in a matter of this kind. So far as regards the matriculation-fee, it was found that for the sub-librarians' salaries, and the expenses of the library, and other useful and necessary purposes, the fees were barely adequate. Last year the fee was raised to 12*s.* 6*d.*, which left a very small surplus. It was this year proposed that the under librarians should be better paid than heretofore, and thus the whole of the additional fund created by the rise of last year was exhausted. We had, besides, other objects in view, which could not be attained unless by raising the fee to £1. It was not carried last year, because the town council were not agreed upon the points. We knew that the under librarians were inadequately supported,—we knew that they ought to get more payment than librarians in other libraries.

Did you think that the advocates' and writers to the signet's librarians were underpaid, or that your librarians should be paid better?—We thought that the duties of our library were much more arduous, and it was this consideration that induced us to raise their salaries. We have increased their attendance from three hours in the day to seven, during both winter and summer sessions. Their attendance was formerly from eleven to two; they now attend from nine to four, in order to give greater facility to young men applying for books. We are of opinion, also, that it should not be so much of a circulating library—that we should make it more a place to consult books, not to allow them to be taken away. We also want to check the abuse of the privilege of the professors of the University, and also of the Royal College of Surgeons, in regard to the number of volumes which they are allowed to have. We have requested Dr. Brunton to give us in a scheme of proper regulations for the library.

Did you think of making an inquiry into the salaries of the librarians of other colleges?—No, we did not, not being aware of the extent of other libraries. We likewise went upon this principle, that we were judges of what a person of the talents and abilites which the duties require ought to be paid. We looked to the other great libraries in this city, and formed a judgment. Dr. Brunton is principal librarian, and has very little salary: he does not draw it. The persons who act under the principal librarian are those who have the real labour. Dr. Brunton has a free house, but I do not know whether he has it as a professor or librarian. The salaries of the sub-librarians have been raised to £200 and £150. My opinion was overruled in this arrangement. I thought that £180 and £130 would be sufficient remuneration, but the general feeling in the council was that they should get more, although there has been what I conceive a little stretch in the salaries; in consideration of Mr. Bain's long services, we thought that he should receive more than Mr. Small. We dispute the power of the Crown to put classes into the curriculum. We are aware that the Senatus remonstrated strongly against the late classes which were put into the curriculum. I got considerable blame for pressing it through the council. On the whole, my opinion is, that there is no body of men more alive to the prosperity of the college than the town council. They know that upon the prosperity of the University hangs, in no small degree, the prosperity of the town. Perhaps there ought to be some provision for a professor when he attains a certain age; for instance, the professors of rhetoric and belles-lettres, and others that I could name, at present are almost superannuated, and do not do justice to the University.

How would you raise a fund for this purpose?—I would make it a part of the general foundation. I can say from experience, in conclusion, that you could not get any body of men who would exercise the right of the patronage more properly.

No. XII.—*College Bailie John Patterson, and Robert Johnston, Esq.*

Examination of Bailie John Patterson and Robert Johnston, Esq. (26th Oct. 1833.)

No. XII.

Mr. Patterson.—The functions of the college bailie are, to see that the college is kept in repair; giving orders for the repair, for instance, of broken panes, of the roofs, and various little matters of that kind, and going also to present the deed to the Senatus Academicus, on the appointment of a new professor.

Does he never interfere in relation to the management of the college funds?—The college funds we never touch, nor interfere with in any way whatever. There is a secretary appointed for uplifting the same, and disbursing therefrom, according to the instruction of the council, or upon the orders of the curators. There is no fund but that arising from the matriculation and graduation fees. The secretary was appointed about nine months ago. Dr. Duncan was secretary previous to this appointment, and he being a professor, there was nothing done at all. When Sir John Leslie died, it was necessary that the apparatus in his room should be handed over to the temporary lecturer. There had been no inventory of the apparatus made up by Sir John Leslie, and everything was scattered about without a list of any kind. His heirs applied for a portion of the apparatus; and it was then, for the first time, that a general list was made out, and it took up my time for several days. It became necessary, therefore, that we should have a secretary, qualified and paid to perform those duties that did not properly belong to me. Dr. Duncan held the situation of secretary, and he received the emoluments of it; but he took no trouble whatever in such matters: his salary was about £200 per annum.

To whom was the matriculation money paid previously?—Dr. Duncan was secretary to this fund. I never saw any of his accounts. It is possible he might keep accounts, but they were not audited by the town. Dr. Duncan's apparatus was in the same state as Sir John Leslie's when he died. We

could not tell to whom the apparatus belonged. His heirs claimed a portion of it it was resisted at first, but we found he had previously been offered £100 for what of it belonged to him, and it was agreed to offer them £200 in lieu of their claim in full. This sum was paid by the town, and the whole of the apparatus now belongs to the town. It was found that the case of the heirs of Sir John Leslie was one of extreme hardship. The town, therefore, gave part of the apparatus to his heirs. The town would not claim what belonged to Professor Leslie individually, but they knew not what belonged to him, in consequence of the want of an inventory, and at his death there was considerable difficulty in fixing what belonged to him, and what to the town. There were frequently gifts made to Professor Leslie for behoof of the University, and he held them merely while he held his situation. These we regarded not his private property; but where there is a clear distinction made, we do not claim what belongs to the professor. There has been a debt of £3,000 contracted, to be laid out in purchases for the museum, &c. A great mass of the property there has been purchased by the professor himself, but we have come to no understanding with him on the subject. We have no check on Professor Jameson; he makes what accession to the museum he pleases; it would fall on him to say what did come under the denomination of donations, and what of purchases. There is no fund for making purchases; and money is advanced for this purpose by votes of the town council.

Do all matters connected with the college originate in the University committee?—Yes. The Lord Provost is chairman of that committee, *ex officio*, and I am convener. Whatever comes under our consideration is brought before the town council, for their approbation of what we have done.

You have had several discussions connected with academical appointments; did you consult the Senatus Academicus in these cases?—We always consulted the Senatus. In the case of a secretary, we entertained different opinions. When the professors had a secretary, we found that he did nothing, and, consequently, the labour devolved on another.

Do you require this new secretary to make reports?—I have got reports from him more than once.

Would these reports furnish one with any idea of his duties?—The conditions of his appointment would furnish you with the best idea of his duties.

Do you think they are calculated to throw light on the propriety of the appointment?—I suppose so.

Do you think that the reports made by the secretary appointed by the town council of his proceedings would confirm the propriety of that appointment?—Mr. Gordon has been but lately placed in that situation, and in a manner has had little opportunity of yet acting at all. It is only this session that his usefulness can well be known. I have found him highly useful. I have communicated with him on such college affairs as fell under my cognizance, and he makes himself acquainted with them. When repairs are wanted, he informs me, and I order them to be made, if necessary and proper. I recommend no outlay unless it is necessary.

Mr. Johnston said, that he only acted one year as college bailie, it being almost impossible for one person to act twice in that capacity. The college bailie must be the second youngest magistrate, excepting in particular cases. I have known the rule to be dispensed with, in consequence of a senior or junior bailie being a literary man.

Mr. Patterson.—So far as my judgment goes, the secretary is a very necessary officer. Without such an officer, the college would not be in an efficient state. He is taking inventories now. Every accession that is made to the apparatus will be reported half-yearly. If purchased by the professor, the fact is stated in the column set apart for that purpose; if presented by any one, it is so entered, together with the name of the donor. After the death of Sir John Leslie, I made out a list of the apparatus, and gave it to the interim lecturer, Mr. Russell, and it was signed by him and me; the necessity of this was made apparent. Some time after, some of the apparatus was stolen, and part of it was found pledged in a pawnbroker's in Edinburgh; the rest of it has not yet been found. To prevent donations being silently introduced, they are *now* to be entered in a column, and signed annually by the professor and college bailie, so that in future there may be no dispute as to the owners of the property, as happened in the case of Sir John Leslie.

No. XIII.—*Dr. Thomas Charles Hope examined.*

Examination of Dr. Thos. Chas. Hope. (29th October, 1833.)

2d Part.

No. XIII.

I see no reason to change the opinion I expressed formerly.* Viewing the appointments that have taken place since I became a professor in the University, I consider that, within the period I speak of, the patronage has been exercised beneficially and uprightly.

Looking to the constitution of the body who exercise it, not individually but collectively, do you think that they are the most competent judges? If they are not, in what way is it that they have arrived at the successful result you speak of?—They have been guided, I think, by the desire of introducing the fittest men, from two considerations; in the *first* place, the desire to do their duty as patrons, and maintain the reputation of the University; and, in the *next* place, the interest which they, as inhabitants and traders in Edinburgh, have in that reputation, as affecting the number of students attracted to Edinburgh. In looking back to the names of the professors who filled the chairs in the gift of the town council when I came to the University, and to the appointments which have since taken place, I think the patronage has been properly and beneficially exercised. It is certainly an anomalous constitution, but hitherto I am disposed to think that it has been well exercised.

How far, do you think, have that body been liable to political influence or local attachments?—It is not reasonable to think that they have on every occasion been exempted from the influence of both; on the other hand, instances are not wanting on which an appointment was made in opposition to the more powerful political influence. Upon the whole, I repeat my opinion, that in the nomination of professors the town council have faithfully discharged their duty as patrons, selecting, when vacancies have occurred, the candidate apparently the fittest for the situation.

The next question that occurs is, whether it is expedient that the patronage should remain in the town council?—I do not see that I can form an opinion on this matter now, as the town council is now about to be altered.

Whether, do you think, are they likely to be more or less under the control of public opinion, as they are now to be constituted, which has been of advantage in correcting the abuses of political influence or partiality?—Perhaps, having strong opinions of their own, they would be less subject to the influence of public opinion.

* *Vide* p. 376.

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Did it ever occur to you, particularly, that any more perfect system of patronage might be formed?—Not being a constitution-maker, I really cannot say. I am, however, satisfied of one point, that the patronage should not be in the hands of the University.

There have been speculations about interposing small cautions by way of preventives to any deviation from proper appointments; for instance, the interposition of delay. Have you formed any opinion as to this?—This I should think highly proper in every case. The chairs should be open to the public for just and fair competition. There has been a plan suggested in the Report of the University Commission, of having a University court. Something of this kind might be proper, as such a body would be less liable to the influence of friendship or politics. Some such body might answer well in the way of veto.

I put this question independent of the question of right, vested interests and rights tending to complicate the consideration very much in the exercise of patronage assumed by the town council,—has the power of modifying or changing the chairs of professors, by multiplication or otherwise, been found to be safely vested?—In looking back, so far as my recollection goes, I do not know of any professorship, at this moment, that has absolutely been created by the town council. The conveyancing class was by the writers to the signet; the agricultural class was one of private foundation also, with the sanction of the town council. Anterior to the period when I became professor, there was a separation of the botany and materia medica, and the latter was erected into a distinct chair, which was a judicious measure. Various proposals have been made by individuals desirous of academic chairs to the town council to split down chairs, which they have very properly rejected.

That, you are of opinion, is a power that ought to subsist elsewhere?—Though no such power has been exercised, yet it would be desirable that there should be some control over the party that has the power. It comes to be a question where the control should be placed. I should be puzzled to say where you ought to put it; but it would be right to have such a control. I must say that I am favourable to the notion of a University court; it would be of importance, particularly when we come to the ordinary administration of the University. A well-constituted court might be safely employed for ordinary administration, as a check. It would also be creditable to the University that it had a more perfect constitution, with chancellor, rector, &c., such as other Universities possess.

The Senatus Academicus have the power of originating measures of internal regulation, but the patrons have the power of negativing them; and, on the contrary, the patrons have the power of originating measures, and carrying them into effect, without the consent of the Senatus?—Yes. The late decision of the Court of Session has found that such are the relative powers of the patrons and of the Senatus; and, in consequence, when it is thought advisable to make regulations, the Senatus present them at once to the town council, lest they should be brought into operation, and be afterwards overset.

Has there been much interference on the part of the patrons?—There has been more interference of late years than formerly, when most matters connected with internal regulations were left to the professors themselves. Of late years there has been considerable interference, and in a manner by no means agreeable to the Senatus, and in matters in regard to which the Senatus conceived themselves to be competent judges.

Supposing the powers to remain as at present, would the evil be provided against by either party having the right of appeal to this University court, or some other qualified tribunal, having a power of merely confirming or negativing?—As a member of the Senatus Academicus, I feel, with others, the control of a body not versed in matters of literature. I think what you suggest would be a corrective.

In the actual exercise of power over you, say for the last dozen years, has it in many instances been particularly injurious to the University?—I could not say.

The addition to the curriculum, for instance?—The Senatus Academicus had included midwifery in the new curriculum, but intended that it should be prospective in its operation, and considered the determination of the town council, that it should be retrospective, as unjust to many students.

One particular part of our inquiry is as to the properties of the University,—the museums,—those particularly attached to chairs?—This I have always considered a matter of great difficulty. If you take the anatomical museum, or the museum of natural history, there is connected with them a great deal of public property. The opinion that I have entertained is, that everything presented to the professor should be public property, and be held as such, because I conceive that such donations have been sent to the individual, in consequence of his situation as professor. All such donations, I have always been inclined to think, should be considered as public property. The professor, however, should not be precluded from purchasing, as his own private property, and keeping distinct as his own private property, whatever he may think necessary for the instruction of his students. Everything gifted to the professors should go to the museums, conceiving that the gift originated in the opportunities which the professors have of receiving it,—that it was presented to the museums, through an individual professor. I would say, that although addressed to the professor individually, it should be public property. A young man, for instance, sends from some part of the world collections of natural history,—he naturally addresses them to the professor of that department; therefore they should be considered as public property. On the other hand, to say that everything found in his class rooms or museum, at his death, is to be public property, is unfair. It should be open to every professor to increase his means of instruction by such purchases as he can make. If the funds for this purpose be not sufficient, it would be a great discouragement to such purchases if they were to become public property. My opinion is, that a professor should not be a public collector; but he should not be debarred from adding, by his own purchases, whatever he thinks necessary for the instruction of his students. With regard to class apparatus, when they have not been given by the public, but added by his own purchase, they must clearly belong to the professor, and ought to be considered so. It would be absurd to imagine that any part of my apparatus, the whole of which I have purchased, ought to be considered as public property. In this respect there has been no interference with me.

Has any mode been adopted in these cases of ambiguity for discriminating the two classes of property?—It is very difficult to do so. There is a great temptation thrown in the way of a professor. Suppose the professor make a private collection, and donations are sent to him, it becomes difficult to determine whether the donation is intended for the private or the public collection. A sensitive man may place the donation in the museum as public property; another may say the gift is not decidedly pointed out as belonging to the University, and that it is his own. I repeat, that I would make every donation to the professor a part of the public property; and this is the only way to do justice. A professor

should not be prevented, in any way, from adding to his collection by purchase; but everything that is not shown to be so ought, *ipso facto*, to belong to the University.

Has there been any attempt hitherto to make any record or inventory of what belongs to the professor, and what to the University?—There certainly has, but with what degree of minuteness I cannot say.

Would it be desirable that some public officer should exist whose duty it was to keep such a register?—I think that some public officer should exist whose duty it was to keep such a register. I should think it very proper that this duty should be committed to some individual connected with the University.

There was lately added to the establishment an officer, whose duty it was, amongst other things, to attend to the taking of inventories, and seeing that they were kept complete, from time to time?—I should think this very reasonable. How far it has been done I cannot tell. I think there has been no question as to it in the Senatus. It has, however, been often talked of, when museums were under consideration; but I do not remember it under the actual consideration of the Senatus Academicus. I should think a matter of that kind exceedingly proper.

Can you speak as to a certain property supposed to belong to the Royal Society in the University?—In the document conveying the gift, a want of discrimination seems most singularly to have been displayed,—it is the Huttonian collection of minerals. There was considerable ambiguity in this document as to the terms of the gift, and the then constitution of the Royal Society. "*Deponantur in Museo*" are the terms, and what that exactly meant they could not tell. Such an officer as you suggest I should think exceedingly desirable. Professors may have the very best intentions, and be exceedingly attentive, and take the trouble of recording and marking everything that comes into their museums; but the trouble we willingly take in our younger days becomes more irksome as we advance in years; and, therefore, in the collections there may be specimens, preparations, and apparatus, which are not known whether they belong to the professor or the University. I do not know a safer mode to provide against this than the creation of such an officer. If such an officer had come in a different shape, and under a different name, I believe the professors would have been perfectly satisfied,—if he had been denominated chamberlain of the University, or some other name—not secretary. Secretary to the University sounds somewhat unpleasant.

You think but for this particular interference with you, in your own meetings, such an office would not have been objected to?—I think not.

It was no part of Dr. Duncan's duty to attend to the duties of such an officer?—Not in the least. There should be some such officer to apply to for repairs and so on. The secretary should be a person whose duties are of a higher description than those which are assigned to him here.

Has not your own appointment of secretary been acknowledged by the town?—Yes; and by the last notice I see a salary has been assigned to him.

Have you taken any share or interest in the discussions that have taken place as to the changes of late, such as the matriculation-fees, and the appropriation of them?—No. In my opinion the regulation was not a judicious one. It will bear hardest on those who attend a single class,—such as natural history, agriculture, chemistry, and who do not want University honours or status,—and it probably will prevent several individuals from attending such classes. It might not be improper to leave it optional for such description of students to matriculate or not; or to pay a lower fee to cover the expenses of janitor and college servants. Students who are to look for college status and the use of the library may have less cause to complain; but many of them have very slender means.

Would you give to any court the high powers of deposition and suspension, and of detailing the instructions to be given?—This is a power greater than any court should possess. I should think very well of such a court to check the patrons and Senatus, to affirm or negative enactments made by one body or another; but to give them a power of deposition and suspension, and that without appeal, would be most unjust and dangerous.

No. XIV.—*Dr. John Gairdner, late President of the Royal College of Surgeons, examined.*

Examination of Dr. John Gairdner. (5th December, 1833.)

No. XIV.

How long did you hold the office of President of the Royal College of Surgeons?—For two years.

What other offices of a civic description did you fill?—I was, in virtue of my office, a member of the town council, and manager of various institutions of a charitable description, as well as of the University, high school, &c.

Were you a member of the college committee?—I was.

Do you think the ordinary administration of the business of the University well vested where it is?—The town council must always have a strong interest in the prosperity of the University, and no interest which is opposed to it; and, therefore, I think it is in the safest possible hands.

Do you allude to the patronage, or to the ordinary administration of the business of the University?—I allude to both. The ordinary management must necessarily be conducted by the professors, but I conceive it to be necessary to the interests of the University, which are not *necessarily* coincident with those of the professors, that there should exist somewhere a power separate from them, and superior to theirs, for the determination of all questions affecting the interests of the institution.

At present, as we understand the matter, the Senatus Academicus may enact laws which, if not challenged, will be effectual; but these are subject to revision and repeal by the magistrates; while, on the other hand, the magistrates have a power of originating rules without consulting the professors, which rules are not subject to repeal or revision by the latter?—Yes.

Do you conceive that it might be useful to establish some third body, to whom both the patrons and the professors might appeal in case of any discrepancy of opinion between them?—I do not anticipate any particular good from such a body. Wherever the supreme power may be lodged, it is plain that differences of opinion may arise between those who are the depositaries of it and the professorial body. Such differences cannot be prevented under any arrangement which involves a control over the establishment separate from that of the professors, and superior to theirs. The council must necessarily, as a body, be greatly inferior to the professors in scientific knowledge, but they can have no motive to adopt a busy meddling line of policy. It must be their wish to concede to the professors, and to defer to their judgment, in University matters, unless they have some strong reason to think that the professors are in the wrong; and as it is at all hands allowed to be of great importance to the city that the usefulness and efficiency of the University should be maintained, it is not to be supposed that a body which represents the inhabitants, and is identified with them in its

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interests, should entertain any feelings hostile to the University, or be guilty of any officious or improper interference.

According to your experience, has there been any such interference?—I do not remember any interference in the administration of the University deserving of this character. The worst acts of which I have known the council guilty in University affairs were in the exercise of their patronage; and, particularly, in filling up certain subordinate offices in the University. I have no fault to find with any of the appointments *to professorships* which took place while I was in office, though I have heard it surmised that partial and political favour has occasionally governed such elections at various periods; but in regard to the minor offices I certainly *have* witnessed appointments which I deemed highly improper, and which I could not explain but by supposing that partial favour *was* shown. However, I think the patronage has, on the whole, been well and purely exercised, and the recent changes, by which the council and the community are identified, and the control of public opinion over the former established, must necessarily have a tendency to counteract such sinister influences.

Do you approve of the conduct of the council in the establishment of the course of study for medical degrees?—I may say, with regard to that course of study, which is not exclusively the work of the council, but partly also that of the Crown, that I approve of it *generally*, and that the chief fault I have to find with it is, that it is not yet so extensive and complete as it ought to be, particularly in regard to preliminary education. Some knowledge of classical literature, as well as of mathematics and natural philosophy, is necessary, in order to the attainment of a surgeon's diploma at Edinburgh; and as the degree of Doctor in Medicine is a still higher grade—indeed the highest which is conferred in this place—I humbly think that a similar and even stricter regulation ought to obtain in regard to it; and although many candidates may be of their own accord sufficiently instructed in these departments, I am of opinion that it ought not to be a matter of option, but that a knowledge of Latin, Greek, mathematics, and mechanical philosophy, ought to be made imperative on all candidates for medical degrees. As to the professional part of the curriculum, I have no fault to find with it, inasmuch as it consists of such classes as students would of their own accord desire to take for their own improvement, or, at all events, as they ought to take if they wish to be qualified for the successful practice of the medical profession. In short, no one, I think, should have the degree of Doctor in Medicine conferred upon him unless he unite the education of a well-informed gentleman with that of an accomplished physician. The present course of study is pretty complete as regards the latter, but is still very deficient as regards the former. In giving this opinion, I wish it to be understood that my remarks relate to the course of study *itself*, and not to that part of the regulations which requires *that* course to be pursued *exclusively* within the walls of a University.

No. XV.—*Sir William Hamilton, Bart., Professor of Universal History in the University of Edinburgh, examined.*

Examination of Sir William Hamilton, Bart. (7th July, 1834.)

No. XV.

Has your attention been much directed to the history of Universities in general?—I have made the history of Universities, both foreign and British, an object of considerable research.

Have you turned your attention to the system of patronage in the University of Edinburgh?—I have.

Do you think, on the whole, that the patronage of the University has been well managed?—Relatively to other Scotch Universities, it may justly be said to have been well managed; but relatively either to any rational standard of attainable perfection, or to the manner in which the patronage of foreign Universities has been actually exercised, it must be held to have been extremely ill dispensed. Those who honestly regard the Edinburgh system as tolerable are, as is generally the case, utterly ignorant of the state of foreign Universities, past and present, and only contrast the doings of the town council with those of the self-elective or professorial patrons in other Scotch Universities. Upon the whole, the state of academical patronage is worse in Scotland than in any other country of Europe out of Britain, bad as it is in many. I attribute the defects of the Edinburgh system to the evil constitution of the town council, considered as a board of academical patrons, the vices of their constitution partly arising from the multitude of members,—partly from their transitory continuance in office,—partly from their want of intelligence and information,—and partly from their being left peculiarly exposed to the influence of indirect and corrupt motives. They are, in fact, organized for purposes wide apart from those of academical patrons, &c. Not only are they incompetent to the proper exercise of this patronage; they are told, by the fact of this function being thrown to them as a subordinate part of their duties, that it is of little importance how it may be performed. A proper body of academical patrons ought to be specially organized for the purpose of that patronage; both that they may be competent to their functions, and that they may be fully impressed with the importance of its due discharge. As to their multitude, I think it is impossible that so large a body as thirty-three, however carefully selected, from whatever rank of life, can on the average possess the understanding requisite for the due exercise of an academical patronage. Then so numerous a body can never harmoniously concur in active and anticipative measures. It is impossible that such a body could look around for or discover of themselves whom they ought to call, or that its members would agree to make a tender of the vacant chair to an individual who might accept, but would not condescend to solicit them for the appointment. They are, consequently, left to distribute their patronage among those who come forward as candidates for their suffrages. But this, it must be recollected, narrows and degrades the sphere of choice. Men of much self-respect will not so demean themselves; and the value of academical appointments, as places of honour, being thus lowered, they present a smaller temptation to higher talent. I would say also that a body so numerous as the town council, were it even drawn from a far higher class, could feel little or no responsibility in the dispensation of its University patronage. As to their want of intelligence and knowledge, I hold that a well-constituted body of patrons ought either to possess themselves, or be able to obtain from authentic sources, the information of who absolutely are the persons best qualified to supply academical vacancies: nor is it at all sufficient that they should be competent to determine in regard to the relative merit of actual candidates; for many individuals, and those in general precisely of the highest qualifications, would feel honoured by the offer of a situation which they would consider beneath them to solicit, were such solicitation even certain of success. But even this primary act of a proper patron's duty cannot be expected from a body like the town council; and, in point of fact, such spontaneous invitation never has been given by them to any individual, of whatever eminence. The

nearest, and I believe the only distant approach to such an active exercise of their duty, was on the occasion of a recent vacancy, when several influential members of the council wrote to request Sir John Herschell to allow himself to be put in nomination as a candidate.

Does the largeness of the number give an additional or less weight to the force of public opinion?—It operates, in my opinion, in one way to give a greater, in another to give a less. It tends certainly to secure a *certain* weight, in so far as the sphere (the numbers) on which this public opinion operates is extensive; but, in the second place, what is infinitely more decisive, it tends to reduce the intensity of its effect to zero, inasmuch as this public opinion can, on so numerous a body, determine a very insignificant sense of individual responsibility; while, at the same time, every sinister influence will thus have an easier and more powerful application. In respect to their brief continuance in office, this incapacitates a transitory body like the town council from a due discharge of their duty as patrons in two ways: first, as precluding the possibility of all relative experience; and, secondly, by extinguishing any lingering feeling of responsibility which their multitude and obscurity might leave; for, can it be imagined that a thirty-third fraction of the municipality could hope for glory or fear disgrace for any act in which he had concurred during the year of his official transit?

As to their want of intelligence, do you think that a body of literary or scientific men would be good patrons?—The excellence of academical patrons is not, in my opinion, necessarily in proportion to the degree of their literary or scientific acquirements; but still the intelligence requisite to such patrons supposes, at least, a certain amount of accomplishment. They must (which they often cannot be presumed to possess themselves) know where to seek the information on which to make a proper choice, and be able thoroughly to sift their information when obtained, and to estimate it at its proper value.

Were these qualifications found in the class from which the town council was formerly taken?—Not in the very least. They could not even judge of the value of testimonials which actual candidates were left to collect in their own favour. This was indeed hardly attempted. A candidate possessed of influence with the electors rested little on such certificates, and these were merely got up for the purpose of not committing the electors with the public. One body of testimonials were, in the eyes of the honest burgesses, as good as another; it was another influence that determined their suffrages.

Do you think that the class from which they are at present taken is materially better?—Not much. The present system makes it certainly more likely that a small number of more intelligent individuals may belong to the council, but this is always accidental. At the same time, the kind of intelligence also for which town councillors are elected is not the kind or the degree of intelligence necessary for literary and scientific patrons.

Have you reason to think that, on some particulars, it is even worse?—I have no reason to believe matters worse, and no reason to consider them much better; I mean in relation merely to academical patronage, except in so far as the present council in the mass would certainly be less exposed to the corrupt influence which too frequently, indeed always, when powerfully applied, determined the decisions of the former.

Had each member of the old town council really an opinion, which he himself adopted and followed, with regard to the disposal of any one office or matter of patronage, or has he been merely the puppet of some person who lay behind and was not seen?—The great majority of the former town council could not exercise—in point of fact, did not dream of exercising—any independent opinion in regard to the appointment of professors; their votes were given under the guidance of an individual, or a small number of their colleagues, who were probably themselves again exclusively actuated by the influence of persons not of the town council at all. The responsibility which, from its dissemination among so great a number, was almost attenuated to nothing, was, in point of fact, generally thrown wholly off the shoulders of the real masters of the election, and transferred to individuals of whom the world knew nothing, and, therefore, could not reach with its opinion, and of such a rank in society as to be utterly insensible to reprobation or applause, even had these been accorded to them. But they were beneath this.

Were those men behind the scenes in general qualified to judge of the pretensions of candidates?—This depended solely on accident. When those influential individuals were disposed to move by the sense they entertained of the merit of candidates, and when this opinion was formed on proper grounds, their influence was of course salutary; but, on the other hand, when, as far more frequently happened, they were influenced only by private or party motives, in that case their authority tended only to diminish the chances of a proper choice.

With the lower classes of electors, are you aware if it was the practice to institute much solicitation in regard to these offices?—Personal solicitation has been practised, I believe, universally. The electors were courted as if they were gratuitously conferring a favour, not exercising a trust. Those who were above this did not appear as candidates.

Was it of that coarse and vulgar kind which one might expect, considering the class and rank of the electors?—Every possible mean was, I believe, exerted where there was a contest; every indirect influence that could be brought to bear was deemed fair by honourable men. Candidates were compelled to stoop to the level of their electors. And, as I before stated, there has not been a single instance in which, where a corrupt influence has been adequately exerted, the most superlative merit, if otherwise unaided, has had any chance; while it has often happened, that where merit did actually succeed, success was obtained by the very narrowest majorities, and only obtained at all by employing the same sinister mean which would otherwise have been triumphant against it.

In a body like the University of Edinburgh, where so many chairs are medical, does it appear to you that a class of men, moving in the society of family physicians, are apt to have undue influence on the electors of such a class as that of which both the old and the new town council were composed?—Undoubtedly. The doctors will lose considerable influence if the civic rulers are deprived of their academical patronage.

Is it probable, for instance, that a bailie or a town councillor would prefer his own doctor to the most eminent doctor in Scotland or England to a vacant chair?—I have no doubt he frequently would, and very honestly too; for what can he be expected to know of medical reputations? At the same time he is not very likely to hear the truth from his medical attendant; for it can hardly be for the latter's interest to turn another medical leviathan into the city; and he is, perhaps, if not himself a candidate, the friend or the relative of those who are.

What is the effect of the influence which the clergy have exercised over the University patronage in past times?—Upon the whole (and this is, I believe, generally admitted) very unfavourable. In fact, a certain number of chairs have always been engrossed by the town clergy, and this not always by men

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who merited academical appointment from their abilities or learning, while, at the same time, their attention was distracted from the due discharge of either of the offices which they held in plurality. This, I may state, is the published opinion of the most eminent divines of the church itself.

You alluded to one instance in which certain members of the town council requested a man of known eminence to offer himself as a candidate to a vacant chair; have you heard of any other instance where they have called an Englishman to become a professor?—I remember none.

Do you attribute this to the sufficient qualification of Scotch scholars to meet the demand of such Universities as Edinburgh, or could they not have better qualified persons by going to England?—It is notorious that Scotland has not always possessed the individuals most deserving of such appointments; and the simple fact, that none but a native of this country (however low the standard of erudition in Scotland) has ever yet been nominated to a chair in the University of Edinburgh, shows that local influence has been always a necessary condition of eligibility.

Do you consider that the qualifications necessary for regulating the internal government and management of a college necessarily presuppose more or less judgment than the distribution of the patronage? Which do you consider is the higher department?—I consider the act of patronage as the higher and incomparably more difficult function; and, in point of fact, on the Continent of Europe, the curators of the different Universities are always the virtual patrons of academical offices: I mean by the virtual nomination that recommendation which effectually determines the formal or definitive appointment. I hold, that if a body be unfit for the ordinary superintendence of a University, *multo minus* is it fit to exercise the higher and far more delicate functions of patrons.

You have said that you consider our system of patronage in Edinburgh, as compared with other Universities of Scotland, good; but, compared with the Universities of the Continent, bad; could you suggest any hands into which it might be put with more safety, and where it would be better exercised?—If, by the question, it is meant, whether a body of patrons could actually be constituted who would discharge with greater advantage to the public the functions of academical patrons, I do think so.

Is it your opinion that any body at present in existence is qualified for such a duty, or should there be a body who have no other duties to discharge?—I am of opinion that the choice of professors ought to be the principal duty for which such a body should be organized, but not the only duty. Their other duties ought certainly to be of an analogous nature, such as the ordinary care and superintendence of the University; and, in point of fact, this, in the best-constituted Universities, is always the case.

Is it your opinion that the board should be of a very limited number, in whom the patronage should be vested?—I think it should be a small plurality; not less than three; not more than five. More than one, in order to secure an extensive and many-sided consideration of the merit of individuals, to obviate the evil effects of influence which might be too strong for an individual always to resist, and to neutralize personal partialities, whether to persons or things. In a small number, that all may possess the requisite intelligence and information, that they may come to harmonious conclusions, take extensive and anticipative views, and, in short, concur in any measures proper to obtain the highest qualifications. Above all the number should be small, in order that each individual may intensely feel his responsibility, and that public opinion may exert on him a salutary and effectual influence.

Do you consider it would be a salutary check if the curators were held bound to present their nominee to the Crown, with the reasons of their recommendation, and that the definite nomination should lie with the Crown?—Certainly. If a body of curators were obliged in each nomination to make an articulate statement of the absolute and comparative qualifications of the object of their choice, this, of itself, would not only raise the standard of competency far above the multitude of ordinary individuals who at present constitute in this country the majority of candidates for academical appointment, and who are too frequently also the successful ones; but in fact make it almost impossible for the curators not to recommend, if not always the best, at least one or other among the best.

With regard to the difficult question of who should exercise the right of nominating curators, will you have the goodness to turn the subject in your mind, as to the constitution of such a board, from whom and by whom they are to be chosen?—I will endeavour to do so.

Are there any other regulations which you can suggest that would make the discharge of the duty of curators purer, and more to be depended on?—I think that the importance and responsibility of their duty would be not ineffectually impressed upon the academical patrons, if, on their entrance upon office, they were to make oath in the most solemn manner (in Holland it is before the King) to the impartial discharge of their duty; and if, on each particular recommendation to the Crown for the definitive appointment, they were to state on their honour that their determination had been solely determined by the comparative merit of the person they recommended.

Would you lodge the government of the college, in all particulars except those that should be properly exercised by patrons, in the same board of curators whom you propose to be patrons?—I think it would be absurd to separate the functions of curator and patron.

Will you give us the general outline of the distinction between the regulations that should be exercised by the professors themselves, and those which should be exercised by the board of curators?—Without descending to particulars, I should say, that the every-day government of the University should be left to the academical Senatus, subject, however, to the revision of the board of curators; whereas all legislative measures, and in general all matters of higher importance, should belong exclusively to the curatorial body. I would lodge, for instance, solely with the curators, the fixing of the curricula of the different professions, and the attendance necessary for degrees in the different faculties; the curators, of course, would listen to any suggestions from the professors, but judge for themselves. The curators would, of course, regulate everything in regard to fees. These matters should not be left to the professors, their personal interest being directly involved in such regulation. In point of fact, though not known to the public, the right that has been exercised in the other Universities of Scotland by the professors to regulate fees is an illegal usurpation. In reference to the subjects of the preceding examination, I would beg to refer the Commissioners to an article written by me on the Patronage of Universities in the Edinburgh Review of last April (No. 119), and in that article particularly to p. 197—203, and p. 219—221. The subject is there treated more fully and systematically.

In compliance with the request which the Commissioners did me the honour to make of stating my views in regard to the best mode of constituting a board of curators, I beg leave to submit the following:—The best mode of organizing a board of curatorial patrons for the University of Edinburgh appears to me the only point of any considerable difficulty; and this because we have here not

to deal merely with principles in the abstract, but to determine what, under the special circumstances of the case, is the highest point of perfection which we can practically realize.

But, before stating what appears to me the most expedient plan of constituting such a board, I would premise that a board of curators, almost any how elected, and of only ordinary intelligence and probity, would, if small, and not of a transitory continuance in office, be always greatly preferable as academical governors and patrons to the passing mob of civic councillors, either under the past or present constitution of the city; because such a body could hardly fail of being more competent to their office, from greater average understanding, from their not being disabled for active and harmonious measures towards obtaining University teachers of the very highest qualifications, and from their standing prominently forward to public view, and consequently acting under a powerful feeling of responsibility in the exercise of their trust. But merely to improve on so vicious a system of patronage as the present would be doing very little; and, though a small board of curators could not but be preferable to the town council, still the all-important question remains, how is such a board of the highest possible excellence to be most securely obtained?

In attempting a feasible solution of this problem, we must accommodate our plan to existing circumstances, and construct our building with the materials that lie around us. These are certainly not the best possible; but they seem to me not inadequate to the end in view; and the difficulty of obtaining better, if such could actually be obtained, would probably far more than overbalance the superior advantages they might otherwise promise. Taking, therefore, the *public bodies*, such as we find them in this city, and employing the principal of these as the means of organizing a board of academical curators, the following appears to me the plan which would probably accomplish, to the highest practical perfection, the end in view, *i. e.*, the election of curators competent to their duty, and actuated by the strongest motives to its fulfilment.

Let the curators be elected for a fixed term of years, say seven; and there may either be a general septennial election, or each curator may continue in office the full term, from the actual date of his appointment. Curators to be re-eligible; it being also understood that they *ought to be re-elected*, if their conduct merit approbation. When a vacancy occurs, a writ to be issued from , requiring each of the six following bodies to elect, and their president to return to , as elected by a majority of at least two-thirds, a delegate, (as the writ and return should bear,) qualified by his intelligence, probity, and general liberality, to concur in electing a curator or curators of the University. Those bodies are, 1. The Faculty of Advocates; 2. The Society of Writers to the Signet; 3. The Royal College of Physicians; 4. The Royal College of Surgeons; 5. The Presbytery of Edinburgh, (or, perhaps, under certain regulations, the Synod or General Assembly;) 6. The Town Council. The delegate to be either a member of the constituent body or not, but never its ordinary presiding functionary. In the case of the town council, the delegate ought certainly not to be a member of that body; and perhaps it would be better if the same rule were even extended to the others. On his appointment the delegate to make a solemn declaration, before a meeting of his constituents, that he has not canvassed for the appointment himself, or sanctioned any canvassing by others on his behalf; that he feels no sense of obligation to vote for any individual; and that, in the election, he will be solely biassed by his honest conviction that the object of his choice is the person best qualified to discharge with intelligence, and without personal, political, or religious partiality, the functions of academical curator. Should any of the bodies fail in returning a delegate by the requisite majority, the complement of six to be supplied by allowing one or other of the remaining bodies, in what order, and under what regulations may be deemed expedient, to elect a second delegate. The delegate to be ineligible to an academical chair by the curators whom he has concurred in electing, and perhaps likewise his sons, sons-in-law, and brothers, or only under certain restrictions, as, for instance, only by a unanimous choice of the curators. The delegates to report their elections of curators to the minister, specifying the votes of each delegate for each curator; and each delegate also to report his own vote to his constituents. If the choice be unanimous, the minister bound to confirm the nomination; but otherwise, it shall be in his power to order a new election of delegates and curator: but should the same curator be again returned, his appointment to be hereby determined. Incompetent to the curatorial office,—Peers, the lords president and justice-clerk, professors, clergymen, and practising medical men; and not more than two curators at most to be elected from the judges of the supreme court. Before entering on their function, an instruction for their conduct in office, ratified by his Majesty and Parliament, to be accepted and signed by the curators. This instruction should, *inter alia*, anxiously prescribe that they are not (as has in this country hitherto been the case) merely to bestow the vacant chairs on one of those who may happen to come forward as candidates; but that they are to look carefully around for the person of the highest competence, and make to him a tender of the appointment, even at the risk of it being declined. They should also make an articulate oath to the upright discharge of their duty, and this in the most impressive form, as before the *whole* court of session, specially commissioned for the purpose by the King. As formerly stated, the curators, on each designation of professor, to make a detailed report of their choice and its grounds to the minister, stating whether it was unanimous or not, and the names of the majority and minority. If unanimous, their designation to necessitate the confirmation; but if not, then the minister may remit the matter for reconsideration to the curators, and even ultimately suspend his ratification. On this last event, (which is not of probable occurrence,) the curators must, of course, resign; but if the new curators hereupon appointed (whether the same individuals be elected or not) repeat the former designation, in that case their choice to be held as final, and the Royal confirmation not be refused.

The reasons of the different parts of this plan are sufficiently obvious. The primary elective bodies, though none of them the best possible, are still sufficiently numerous, and sufficiently different, to neutralize any partial interests with which they might severally be infected, and each will, consequently, be induced to act only for the benefit of the public, in which they themselves always participate. Then, as the delegates are to be chosen by a large majority, no one is likely to be proposed, far less to be elected, who does not enjoy the general confidence of the electors apart from all considerations of party. The writ, and its tenor, takes the election of delegate out of the ordinary routine, gives it a certain solemnity, and puts the electors on their honour; while this is still more efficiently done with the delegates by the public declaration they must make on accepting their commission. The report of the delegates to the minister and their constituents is useful, by impressing more strongly on them the importance of their choice; by bringing their individual conduct before the world, and thus enhancing their consciousness of responsibility. The signature of the instruction,

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and the solemn oath by the curators, will tend to keep them alive, and, what is even of greater consequence, to keep the public alive to the nature and high value of their duties. If the public know what they have a right to expect, then trustees will be sure to feel as a necessity what they ought to perform. But every precaution to raise an academical patronage out of the sphere of private and party influence is the more anxiously to be taken, as in no other country of Europe, both from the relations of our Universities, and the constitution of our government, has merit hitherto obtained so little weight in the choice of professors,—in no other country is the national conscience in regard to the distribution of public patronage so blunted. To this end the other regulations likewise concur,—the checks and counter-checks of the minister, curators, and primary bodies on each other,—and the necessity imposed on the curators of vindicating their choice by an exposition of its grounds. The reason of the exclusion of the presidents of the primary bodies from the office of delegate is to prevent the delegation from the risk of falling into routine, or being considered as other than a special and most important trust. The exclusion of Peers, the president, and justice-clerk, &c., from the office of curator, is to prevent that honour from being made, or appearing to be made, a sequel to any personal or official rank,—from being regarded as other than the highest and most unequivocal mark of public confidence in the high character and peculiar capacity of the individual elected to the situation. Without attempting an ideal perfection by this plan, I am confident a board of curators would easily and surely be obtained, who would perform all that could reasonably be expected, and determine a golden era in the fortunes of our Scottish Universities.

No. XVI.—*Dr. Robert Graham, Professor of Botany in the University of Edinburgh, examined.*

Examination of Professor Graham. (7th July, 1834.)

No. XVI.

In answer to the queries of the Burgh Commission, I beg to state,—

That I have been Professor of Botany in the University of Edinburgh since 1820.

That my opinion as to the mode in which the town council have hitherto exercised their patronage has not been formed hastily, but after much thought, matured during a long period. That I have often felt greatly ashamed when led to acknowledge to strangers that the town council were our patrons;—that I never saw a stranger who had a sentiment different from my own regarding the ludicrous absurdity of the constitution, and that I have often rejoiced when not forced to acknowledge of what class of individuals the town council was composed.

That while I state as my decided opinion, that, with two exceptions only, which I shall immediately name, the patronage has never been exercised well, I do not at all mean to say that the patrons have never chosen proper individuals to fill vacant chairs: I mean only to state, that with the two exceptions to which I allude, I am not aware that the patrons have at any time taken the steps which I think it was their bounden duty to have taken in every case of vacancy, and which the interests of the University, and the interests of education, imperiously demanded. I allude to the offer which was made of the chair which I now hold to Mr. Brown, and the late offer of the chair of natural philosophy to Sir J. Herschell. This was an exercise of patronage worthy of enlightened patrons, and the acquisition of these two names alone would have carried the reputation of the University in natural science higher than any point at which it had ever before stood. But this has not been the way in which the patronage of this University has been exercised in any other instance within my knowledge. The patrons have waited to be canvassed; they have not thought themselves called upon to seek out merit, and to offer vacant chairs to meritorious individuals, however eminent. I speak from a conversation which I once had with a former magistrate, when I say that some, even of the most judicious among them, would have thought it a descending from official dignity to have done so. I repeat that I do not mean to say that the patrons have always gone wrong in their elections, but that, in the exercise of their patronage, they have almost uniformly refused to take, or, at least, have neglected to take, the steps which should always have been taken in filling vacant chairs; and thus, therefore, though they may have often done right, they have done right in defiance of principle rather than in accordance with it.

That I am of opinion that the short-coming of the council in their high duty, as patrons of the University, is decidedly the vice of the system, not the consequence of any peculiar and removable circumstance. I attribute it to an overwhelming proportion of the patrons being from a rank in society where persons cannot generally be supposed to be influenced by the high feelings which ought always to influence such patrons; they are far more likely to be proud of the office than careful to exercise it well, even in the absence of motives which may very probably lead them wrong. I attribute the short-coming of the council, in the discharge of their high duty, to the consciousness of the extreme responsibility which lies upon them being rarely met with in the rank to which many of them belong. I attribute it to the total alienation of a great majority of them from literary and scientific pursuits, and from literary and scientific men, rendering them wholly ignorant of what is done and felt in regard of such matters in other Universities, or among persons devoted to such pursuits. I attribute it to a large proportion of the patrons, from the above causes, being liable to be imposed upon by interested individuals. I attribute it to the sense of responsibility being still further reduced by the great number of individuals composing the town council, and by their continuance in office being for a short time only;—by the shadow of responsibility, as many of the patrons consider it, being so divided, that the weight of each fragment, the share of an individual, is considered inappreciable, and is absolutely extinguished by the reflection that he will soon be removed from office, and all connexion between him and a disgraceful appointment (should such be made) forgotten by the public. No one has gained any permanent credit by the appointment of the brightest ornament which the history of the University can exhibit; no one will receive any permanent stain, should, unfortunately, the present system be continued, by the most disgraceful appointment which can be made. A small body of less fleeting patrons would know that they must receive permanent honour, or reap lasting shame, according to their success in enrolling, or at least their endeavour to enroll, in the list of professors, names which might advance the fame of the University, and promote the interests of education. *Lastly*, I attribute the short-coming of the town council, in the exercise of their duty as patrons, to the notorious fact that they are chosen for purposes wholly different, without the slightest reference to their eligibility as patrons of the University.

That these opinions which I have stated regarding the magistrates, as patrons of the University, seem to me equally applicable to the town council before and since the passing of the Reform Bill. From want of sufficient information, I cannot speak so positively as to the station in society which the present members hold, nor as to the proportion of them which is taken from a rank in society in which the feeling

of the trust reposed in them, as patrons of the University, must necessarily stand very low; but I fear there is no very material change in this respect; and some other objections to the present council, as patrons, press at least as heavily upon them as upon their predecessors. They are chosen for purposes wholly distinct from the duties of patrons; they are chosen for political purposes, and to manage the affairs of the burgh; but I do not believe it ever entered into the mind of any one elector to consider the fitness of a candidate, as patron of the University, a reason for his choice. If, during the canvass for the election of a town councillor, the person canvassing had suggested, as a reason for nominating himself or his friend, that he was likely to be a good patron of the University, I feel assured the recommendation would have been laughed at.

That every one knows there was, at last election for town councillors, and I believe there will be, in the canvass which precedes every future election of this description, a great deal of political enthusiasm and party zeal expressed, in which the interest of the University was, and always will be, overlooked. It is inconceivable that it should be otherwise. The appointment is given to a man who either is, or affects to be, a political partisan. He must offer himself to his constituents as attached to one party or another; and he will feel himself bound, in support of his pledges, where there is not a very glaring difference indeed among persons proposed for a vacant chair, to give his vote to the person whose political opinions most accord with those of his constituents. It is true he might say he was not bound by a pledge given, when he saw a material difference in point of talent; but different men have different ideas in these matters. The constituency is, *perhaps*, even less capable of judging than the councillor himself; and if a candidate for a chair be, or pretend to be, a political partisan, he may influence the constituency, and the councillor must comply with their instructions, or risk his return at a future election. Perhaps I am wrong; but I cannot help thinking, that leaving the patronage of the University in the hands of the town council, as constituted under the Reform Bill, would almost make the election to chairs a popular election. At all events, I am sure, that were two candidates presented, of different political sentiments, that candidate whose political sentiments harmonized with those of the ascendant party in the council would have a better chance of his election than the other, though his literary or scientific merits might be pretty obviously below those of his rival; and this I am persuaded would be the result, whichever party were dominant in the council.

That, in my opinion, the town council, as now constituted, would be worse patrons even than the old, if that be possible, from the circumstance that a greater number of individuals, *personally* interested in the filling of the chairs, find their way into it. I illustrate my meaning by what has happened already regarding the medical faculty, and may happen in regard of the faculties of law and of arts. Formerly there was necessarily only one medical man in the council, and very rarely indeed was there more; at present there are four. There is an extensive private school of medicine in Edinburgh, from which, at various periods of its existence, I am quite persuaded the University has derived great advantage, as the teachers in that school have often held high and most deserved reputation for their great scientific acquirements, and their unimpeachable conduct as men and as gentlemen. But this school is self-constituted; there is no guarantee to the public that the teachers may not be men disreputable in many respects, both in their public and private capacity, who yet, by rash and bold assertion, and a degree of popularity of manner, (a frequent attendant upon heedless and vehement assertion,) may acquire among the patrons considerable influence, which will always be exerted against the University. But, without supposing an extreme case, it is impossible for men teaching in private not to have certain feelings of rivalry, even of hostility, to the University; and these individuals themselves, or their friends, working their way into the town council, would necessarily carry into the board of patrons feelings inimical to the interests of the University.

That I think that to these individuals, in a very considerable degree, will be delegated the superintendence of the affairs of the University, because the comparatively uneducated tradesmen, who must form a considerable part of the town council, will look upon them as more competent than they, and will think they do their duty when they yield the management of such matters to them.

That I am quite aware that the town council have, *by a majority*, passed a resolution, that no member of their own body shall be eligible to any office in their gift, during the whole period for which they shall have been elected; but though I consider this as highly creditable to the present town council, I look upon it also as an index of the apprehension of danger which many among them entertained, and of the idea which many of them have had, of the motives which induced some of their brethren to join their body; and I do not consider it any protection against an improper exercise of patronage. It cannot, in the slightest degree, interfere with an improper bias towards the relatives or professional allies of the patron, nor to the men of his own faction in science. But, besides this, it has always seemed to me quite evident, that the resolution may be revoked at any time before an election; and if a candidate, being a town councillor, has sufficient influence to secure his election to a vacant chair, he will, at the same time, have sufficient influence to rescind this self-denying ordinance.

That it is not merely in the improper exercise of patronage that interested individuals, according to the present constitution, may injure the University; they may likewise do so by interfering with the curriculum of study, with the time, the duties, and the arrangement of the duties of the professors,—they may do so by interfering with the fees of future professors, or by attempting to do so with those of the present incumbents.

That I am of opinion that these are matters in which even a well-constituted court of patrons should very rarely indeed interfere, if not called upon to do so. Such should form a court of appeal, to which, if necessary, all matters of University discipline and internal arrangement might be carried, after being decided by the Senatus Academicus; but the formation of a curriculum, and the arrangement of the time and duties of the professors, are subjects so delicate, that nobody not conversant with the working of a system, by constantly watching its effects upon students, is capable of interfering, without a risk of doing much mischief both to the University and to the public. A well-constituted board of patrons should, however, constitute a court of appeal, but such a board would rarely originate any proceeding regarding internal arrangement.

That though an interference with the fees may, to a very superficial observer, seem to interest the professors, and not the University, it is quite certain that this is not the case. An attempt to interfere with the fees of present incumbents would be injurious to the University, by distracting the professors from the discharge of their duties, to a defence of their rights in a court of law; and, by reducing the fees of future incumbents to the minimum at which a teacher can be procured, the probability of having high-talented men to fill the chairs would be gone. After a professor is appointed to a chair, and has

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taught for a term of years, he may submit to a great deal; but few high-minded men, if previously warned, would allow themselves to be placed in a situation in which they would be exposed to the thousand more than petty tortures which a narrow-minded, ignorant, or interested patron might inflict.

That there is another way in which ignorant or interested patrons might inflict a serious injury upon the University, namely, by improperly dividing present, or creating new chairs. The present threat by the patrons to subdivide the chair of chemistry will, I am convinced, operate seriously against the University. It is consistent with my own knowledge, that the throwing out of the proposition by a narrow majority in the old town council induced a highly popular and extremely talented teacher of chemistry to declare, that he would not offer himself as a candidate for the chair of chemistry in the University, should he ever see it vacant, because the throwing out of the proposition by a narrow majority left no security against its being adopted at some future period. The impropriety of this proposal I mention as an illustration of the opinion that I hold, that the past, or the present, or any town council, must be bad patrons of the University. I have already mentioned the opinion of one eminent chemist. Another chemist told me, a few days ago, that though he wholly disapproved of the separation, yet, from the peculiar circumstances in which he is placed, seeing that the separation is to be made, he intended to offer himself as a candidate for the new chair. I may state that the separation is about to be made, in opposition to the strongly-expressed and perfectly unanimous opinion of the Senatus Academicus. I doubt very much whether the town council have asked or received an opinion in favour of the separation from a single unbiassed individual capable of understanding the subject; and I entertain no doubt that the mode of canvassing, and the reasons held out for the separation, were such as ought never to have influenced, nor, indeed, been tolerated, by good and competent patrons.

That I am not conscious of any one instance of election to a chair, in which there has not been a personal and urgent canvass for votes among the councillors, both by the candidate himself and by his friends; and I know at least one instance of such canvass giving rise to circumstances so utterly absurd, that, were they known to the world, they would be universally laughed at, and would sink the whole system into contempt. I feel assured, that such circumstances as those to which I allude must have occurred often.

That it is consistent with my own personal knowledge, that, in the exercise of the patronage by the late town council, at least one late case occurred, where, by a narrow majority only, a most valuable professor was added to the Senatus, and a disgraceful appointment avoided; and I look upon the circumstances in which the University is at this moment placed, in regard to the exercise of patronage, as circumstances of very great danger to its future prosperity and credit.

That there are certain principles which evidently should guide the construction of a board of patrons, and which would and should form a board in every respect different from the present. These principles I think are few, but paramount. I hold it to be evident that the patrons of a University should be appointed for that purpose alone. I hold it to be equally evident that they should be taken from a rank in society in which high feelings of principle and responsibility are prevalent. I hold it to be very important, that the number should be small, certainly not exceeding five. I hold it to be almost as important that the appointment should be for life, or for a period of years not less than ten. I am of opinion that the patrons of the University of Edinburgh should be immediately connected with Edinburgh; at all events, that it is indispensable that they should be connected with Scotland, in order to give them a national feeling and a national interest, and, if possible, a feeling of enthusiasm in the discharge of their duties. I am of opinion that they should be inducted into office under some solemn assurance, perhaps oath, that they will discharge their duties to the utmost of their power, looking to the interest of the University and of the public alone.

That I think one or two obvious principles may likewise be stated, to direct the choice of the persons who should have the nomination of the patrons. It appears to me evident that the electors of patrons should be in the educated ranks of society, and who have, *in cumulo*, the principles that patrons themselves ought to have. It is not necessary that every elector of a patron should himself have high literary or high scientific attainments; but he should belong to a body of educated men who possess sufficient means of information.

That I may not have sufficiently reflected upon who should have the nomination of these patrons; but I think, in accordance with the above principles, that the clergy of Edinburgh might nominate one; the University one; the Colleges of Physicians and Surgeons, jointly, one; the different bodies composing the College of Justice one; and the Peerage of Scotland one. It should be understood, however, that none of these bodies should be called upon necessarily to nominate one of their own number; but, on the contrary, that it would be expected of them, in the discharge of their duty, to nominate a person not of their own body, if such should occur, at the period of election, to be more likely to exercise the trust well than any from among themselves. The Crown has been proposed as a source from whence one of these patrons might be derived, and I would only object to that from a most anxious wish to exclude everything relating to the University from anything approaching the pollution which politics is sure to infuse. The objection to the Crown nominating a patron, however, is far less than to the nomination of a professor by the Crown. The cases are widely different. Any set of ministers, no matter who they are, or of what politics, must have adherents, and, being canvassed for vacant professorships by their adherents, might give the appointments to political supporters or their friends. The nomination of a patron, however, is of much less consequence to a political body than the nomination of a professor. The situation of patron would be an honourable but responsible office, and could be attended with no emolument or personal advantage. It is an appointment, therefore, which it appears to me would never be sought, or, if sought, it would only be by persons in that rank who could desire it in no other light but as an honour, and who would feel that it would be the very reverse of such if not conscientiously exercised. If the appointment, as I have suggested, were made for life, or for a long term of years, it could not be made with a view to the filling up of any particular vacancy, and, therefore, I do think the interference of any improper motive in the nomination would be removed as far as possible. There appears, however, another objection to the Crown possessing the nomination of one of the patrons. His Majesty's ministers cannot have the almost direct interest in the prosperity of the University that the bodies which I have named have, and therefore they might exercise their patronage more carelessly.

That I have looked into the constitution of the University court proposed by the royal Commission, and think it unnecessarily complicated; but, above all, I object to the powers granted to that court

as being by far too great. I think the Court of Appeal should be the patrons, but I think the influence given to the University itself, in the formation of the University court proposed by the royal Commission, is greater than it ought to be in the formation of any court in which the patronage is to be vested.

That I am of opinion that every University in Scotland should have its own board of patrons, in order to give it a local interest, to secure a proper rivalry, and to prevent that undue influence which the University of Edinburgh would naturally have if a central board was established in Edinburgh.

No. XVII.—*Henry Cockburn, Esq., his Majesty's Solicitor-General, and Lord Rector of the University of Glasgow, examined.*

Examination of Henry Cockburn, Esq., Solicitor-General. (11th July, 1834.)

No. XVII.

You are Lord Rector of the University of Glasgow?—I am.

Has that office given you opportunity to study the working of our system of University patronage in Scotland?—It has; and has excited my attention to it.

Have you from other causes paid much attention to the state of education in Scotland?—A good deal.

Have you turned your attention to the state of the University of Edinburgh?—Yes, generally, along with that of other Universities and schools.

Do you consider that the mode of supplying professors to vacant chairs in the University of Edinburgh is a perfect mode?—No; I think it is most extremely imperfect.

I presume you do not think it worse in this respect than the University of Glasgow?—No. There it is done by the professors, and this I conceive to be beyond all doubt the worst system that has yet been devised; a fact not merely deducible from general reasoning, but which has been practically demonstrated by the experience of every University, or of every part of every University, that has tried it. Since I became lord rector of the college of Glasgow, which is nearly three years ago, I think there has only been one election actually made by the faculty, and one contemplated; and, therefore, in giving this opinion, I do not wish to allude to anything that has occurred in that college within that time. But the general character of elections there, and elsewhere, by professors, is almost a matter of notoriety. The public has settled into the opinion, I think justly, that wherever the elections are in the hands of the other teachers, they do, and they must, degenerate chiefly into arrangements, in which the absolute merit of the candidate is considered far too little, and his personal connexion with the electors a great deal too much.

Do you think that anything of this kind appeared in the two recent cases at Glasgow to which you have alluded?—Very clearly. The person chosen, in the case where the election was completed, was in every respect admirably qualified, yet it is currently believed that even he could not get the place without a severe and almost ruinous pecuniary arrangement in favour of his predecessor, who was obliged to withdraw from bad health. In the case where the election was only contemplated, it was said to have been an arrangement between two professors, one of whom was to retire, and the other to get his chair; and it was stated to me officially, as rector, by the gentleman who was to withdraw, that there was to be no public competition, or knowledge of the vacancy, but that the appointment of the new professor and the resignation of the old one were to take place at the same moment, or within a few days. I interfered, and the project was disclaimed.

Does it appear to you that some of the objections you have stated exist against these elections being confided to the hands of the town council?—Yes, some of them; particularly those which are founded on the number of this elective body; on the mode in which it is created; on the temporary nature of its existence; its want of qualification to judge; and its liability to be influenced by the unworthy considerations by which such elections are always apt to be interfered with.

Are you prepared to state in this case, as in the case of the College of Glasgow, that the result of experience has not been contrary to what you say now might have been anticipated?—I think not. I hold that experience impressively justifies what I have stated; so that it is not a mere speculative doctrine, but has been proved by the facts. I do not mean to say that excellent elections have not been made by the magistrates of Edinburgh, or by other magistrates; nor that, upon the whole, the College of Edinburgh has not prospered under this system of magisterial election; but it is the greatest possible mistake, though a very common one, to suppose that the success of the University has been owing to this mode of election. Its chief celebrity has been during the last century; and the rise of Scotland for the hundred years that succeeded the Union was so irresistible, not only in learning, but in everything, that the greatest abuses might have existed, and did exist, and yet the country flourished. I have heard it stated by the highest persons, and in the highest places, that the agricultural and commercial prosperity of Scotland was owing to the exclusion of the people from any share in the representation; and no doubt these two things, viz. their exclusion and their prosperity, did co-exist. So did the prosperity of the University, and the election by the magistrates. But there was probably no system of election that could have been adopted at that particular period of our history, under which many good professors would not have arisen in the metropolis. It certainly was not the magistrates of Edinburgh who created the genius of Cullen, or of the Monros, or of Black, or of Stewart, or Playfair, or Gregory, or of the other great men whose reputation forms the reputation of our University. The magistrates are entitled to the praise of having fostered the talents of these persons by selecting them. But if these men had existed in Scotland about that time, when there was very little competition over the country for such places, I conceive it to be nearly certain that they would have been promoted, or at least would have had as fair a chance of being promoted, to the chairs which they afterwards adorned, under almost any plan of election. It is a much truer test of the excellence of any elective system to look to the number of ill-qualified persons who have been chosen, while well-qualified ones have been rejected. A single flagrant case of this description shows the true tendency of the system better than many right appointments. It would be indelicate to illustrate this view by examples, but I am confident that the facts would amply illustrate and condemn the scheme of placing such elections in any body constituted like the magistrates of Edinburgh. No one who has lived long here can have any difficulty in applying these observations.

You do not conceive that the constitution of the town council is so beneficially altered by the late Reform Act as to make it safer, in reference to these elections, than its predecessors?—In so far as relates to the election of professors, I do not think it is improved in the slightest degree, perhaps in some respects it is worse. It retains all the evils arising from its over-numerousness, from its temporary existence, from its being unqualified to judge, and from its being subject to various feelings

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which ought never to enter into the mind of a person judging purely of the proper manner of filling an academical chair. In one very important respect it may be said to be better than the old town council. It is less under the influence of the minister of the day, and therefore may not be so liable to be used, as it formerly was to an excessive extent, as a mere political tool. But I conceive that this is fully counterbalanced by its being placed, in an increased degree, under political or local influence of an opposite description. It is more the creature of the people; and I am not sure that this is a good qualification for an academical elector. Nothing certainly has been done to remove or alleviate the necessity to which candidates are subjected, of trying to procure votes by the personal solicitation of themselves or their friends, a necessity of the most painful and degrading description. I know nothing so humiliating as to see a man of genius or learning compelled to mendicate for an academical chair by personal prostration to each of 33 town councillors, whether chosen under the new burgh system or the old. The impossibility of raising any town council to an adequate state of sympathy with the feelings of a high-minded candidate is of itself no slight defect, and one inseparable from that body having the power of electing. Accordingly, the fact is, that the town council has been kept right, when its selections have been sound (as they often have been), only by a virtual devolution of its powers on the public. The safest course it can follow is, conscious of its ignorance of these matters, to abstain from forming any opinion of its own, and to decide according to the evidence afforded by the public sentiment. If it could be made certain that this evidence would always prevail at the council board, those who sat there might in general be safe electors. But we know that it does not; and that the members have a natural tendency to attempt, or to pretend to satisfy themselves, after which they are exposed to the operation of unworthy acts and considerations, and are almost certain to exemplify their unfitness for such work.

There is one difference between the present and the previous constitution of the town council; what is your opinion of the tendency of the increased number of professional men (I mean medical men) in the council?—I think this tendency extremely bad. Formerly the town council consisted exclusively of merchants or tradesmen, with perhaps the single exception of the president of the Royal College of Surgeons, who used, *ex officio*, to be a member; so that it scarcely ever contained a single person who was qualified to be a professor, or had any academical object in view. But now the wards may elect any body they choose; and it is a very possible case that men having an eye either to medical or to any other chairs may get themselves elected merely for the sake of afterwards manœuvring in the town council for the attainment of this object. The present town council checked this, and did itself great honour, by passing a resolution that it would elect none of its own members to any office of which it had the patronage. But it is impossible to say how long this resolution may be maintained; and the very fact of its being adopted demonstrates the feeling which prevailed, that, but for some such rule, influence might be exerted in wards to procure the election of a town councillor in appearance, when, in reality, the train was laying for an operation upon the University.

Are there other ways in which medical or professional members of the town council may prejudice the University, besides by aiming at professorships?—There are: particularly by their suggesting and advocating measures calculated to hurt, or by their obstructing measures calculated to improve, the college. I may add that in all these cases the professional individual may be supposed to have a considerable weight in the council, because he is speaking on a subject on which he is learned, and the rest ignorant; and on which his zeal is whetted by his interest, and theirs not. I think also that it has a very discouraging effect upon competitors who are not in the town council, to find themselves opposed by rivals who are.

Do you suppose that the town council is better fitted to exercise the management of the internal regulation and government of the college than of its patronage?—No. I do not think that they are qualified to manage the internal regulation of the college at all. This opinion rests partly on the circumstances already stated, and partly on the consideration that the economy of a college requires that those who pretend to conduct it should know something of the subject. But what knowledge have the average members of a town council, either of the sciences taught, or of the system of teaching them? Were it not that I conceive it to be absolutely necessary that there should be some power of management external to the college itself, I should hold that the interference of the town council must generally be positively pernicious. It is only less pernicious than leaving everything to the professors. Its possible evils are alleviated by the circumstance, that the subject is so alien to the taste of a town council, that it rarely interferes, except in some strong cases, and that, when such cases arise, the public discussion tends to keep both parties right. These are collateral accidents, which diminish the effects of a bad system; but the plan of subjecting the internal arrangements of a University to a town council humbly appears to me to be in itself the very extreme of absurdity.

Do you consider it to be possible to devise any hands in which the patronage and internal regulation of the college might be more safely trusted?—That is a very difficult question. We in Scotland have had no experience but of three modes of election and of government; one by professors, one by town councils, and one by the King. That by the professors I conceive to be clearly the worst. Badly constituted as town councils are for this business, I think that they are safer than the Crown, if the Crown is to continue to act as it now does. The public voice has a greater chance of reaching the town council than the Throne; and, accordingly, I believe that nothing has so often made the magistrates err, as their being swayed by political influence, exerted over them from above. But I am inclined to think that it would not be difficult to make an arrangement, by which elections by the Crown would render it the best of all. The essence of this arrangement would consist in putting colleges under some high and responsible minister, who should have nothing, or little else to do, than to exercise those and other acts of royal patronage connected with the instruction of the people. So long as this forms a subordinate part of the business of any great public officer, such as the Secretary of State, it may be done well in general, but it can never be trusted to be done well always. Such an officer has other objects to attend to, which will always appear to him more important than the election of teachers, because they are so in the eyes of the public; and hence his reputation will never depend much on the discharge of a function which is not prominent, and as to which he is little subjected to public and parliamentary control. His academical patronage, therefore, will always form a comparatively immaterial object in his sight. But these objections would be removed if the general management of the royal patronage connected with the moral, religious, and scientific education of the people, were given up to one minister of very high station, who could have no glory except in the success of his peculiar department, and would not be obstructed or overshadowed in discharging its duties by anything that might absorb his attention, or withdraw the public mind from his particular sphere. I have

long thought, and still think, that the institution of some such officer as is known on the Continent by the title of Minister of Public Instruction would be a safe and salutary measure in this country. But as this implies the establishment of a new office, and the introduction of a totally new system, it is probable that it will not be attempted, and that we must try to make the most of the elements which are within our power. In this view the only remaining alternative is to place the patronage of the University in the hands of some body better constituted than any town council can upon an average be expected to be; and such a body has, I think, been already suggested for other purposes, and might be taken advantage of for this one. The College Commissioners have recommended, and I think upon the clearest grounds, the institution of a college court, to consist of a small number of persons, chosen in a way which they describe in their Report. The constitution of this tribunal would require to be somewhat changed from what the Commissioners have proposed, but, on the whole, I think that a very excellent and efficient body might be produced, with a view to its constituting the court so recommended. Now, I do not see why the patronage of the University should not be entrusted to this body, as well as its discipline, and the other duties which the Commissioners assign to it. On the contrary, it seems to be the simplest and the best proposed selection of persons for exercising the patronage, and guarding the economy of the college. It would have the advantages that the town council has from its plurality, without its disadvantages, and might have nearly as much virtue as a minister of public instruction, with a greater devotion to the interests of the particular college over which it was set, and to which alone its attention would be confined; because I think it a sound principle, that the patronage of any University has always a better chance of being well exercised when the patrons have nothing to do with any other college, but, on the contrary, have a pride in the success of their particular establishment, as in opposition to all others.

What are the interests you think should be represented in such a court?—The voice of the students ought to be very distinctly heard in it. It should contain one person, at the very least, directly elected by them. The professors ought to be represented there, as also the patrons, assuming that the magistrates are to retain the patronage, and the King as the general protector and patron of all Universities. But I must state, that although I have the strongest possible conviction of the necessity of a college court, and also that the constitution proposed for it by the Commissioners is not, in all respects, quite sound, I am not, at present, prepared to specify the exact particulars in which I think it defective, except that, in general, I think that the students have too little to say in it, and the *ex-officio* members rather too much.

Would you have the law bodies represented in that court?—No. I don't see what the law bodies have to do in that court, more than any other bodies. I would much rather, if we are to go beyond the patrons, the graduates, the students and the professors, give the power of electing a member of that court to the public at large; but I think that the court had much better be confined to the various interests more immediately connected with the establishment.

Assuming it was given to the public, who should be the constituents?—I am not at present prepared to answer this question; and I beg it to be understood that I by no means recommend it to be given to the public at large but merely mean to state that I think the public would be a better elector than what are called the law bodies. None of them, however, should have anything to do with it.

Do you consider that there might not be some inconsistency in the Crown sending an assessor of equal power and rank with the other assessors who form this court?—No. I do not see why.

There seems to have been originally an idea that the Chancellor of the University should be named by the Crown for life, and form an integral part of the University court?—I am very clear that there ought to be a person there, named by the Crown, whether called Chancellor or not. I think none of them, except the Chancellor, should be for life; and even as to his being for life, I am by no means confident.

You would not think it proper to have them moved frequently?—Certainly not. The experience I have had in the College of Glasgow enables me to say, with the utmost possible confidence, that no person set up, either as a check, or as a guide and assistant to the professors and the students in the management of the College, can ever do much good, if he is removable at very short periods. I am perfectly certain that, even without a college court, any man who did his duty as Lord Rector of the University of Glasgow could easily do immense good, provided he knew that he was certainly to be in office for five, six, or seven years; but his being removable at the end of every year, and scarcely ever retained above two years, completely cripples and discourages him from doing almost anything. It would be the very same thing with the members of the college court at Edinburgh, if their official life was very short or very precarious.

Would you vest the right of electing the assessor in all the students, or in any particular classes of students?—I would vest it in all the students who have attended the University for one session. The general body of the students are very seldom mistaken in their opinion of the academical merits of a teacher; insomuch, that, perhaps, no safer criterion can be applied, in a disputed case, than to give effect to their inclination. The same circumstances which make their opinion of a professor almost always correct, would enable them to judge, with equal success, of the fitness of any proposed assessor.

Would you suggest that they should vote individually?—Yes; and I exclude those who have not previously attended for one session, not so much on account of their probable youth, as to prevent persons being sent to the college merely for the sake of voting, and to secure the election being in the hands of those who have some connexion with the place.

No. XVIII.—*Sir George Ballingall, Professor of Military Surgery in the University of Edinburgh, examined.*

Examination of Sir George Ballingall. (12th July, 1834.)

No. XVIII.

Have you been long resident, and in practice, in Edinburgh?—I have been resident, and in practice, here for 15 years.

Have you had occasion to become acquainted with the practice of the town council, in regard to the mode in which they have exercised their patronage of the University?—I have naturally, as a professor in the University, paid some attention to the subject. I think the appointments they have made have, in general, been very fair appointments; but I am not sure that the town council is the most eligible body in whom such patronage could be vested.

Do you think there have been some narrow escapes in the eligibility of appointments, where the rival candidate, who was very near succeeding, would not have been a good appointment?—I believe

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there have, in some instances. Perhaps one of the worst effects of it is on candidates themselves, because some eligible candidates have not come forward, in consequence of its being necessary to make a personal canvass, and to push that canvass vigorously in order to secure success.

Have such personal canvassings been backed by canvass of friends?—In almost every instance it has been so, and by as many influential men as they could bring into the field. It may easily be understood, from the constitution of the town council—its members being men engaged in different branches of trade—many of them shopkeepers, (very respectable men in their way)—that influential persons have a considerable control over them. Influence of this kind has, I know, been attempted, but how far it has been successful I cannot say. I doubt very much if the town councillors are, in general, of such a rank in society, and of such delicacy of feeling, as to render it impossible that such claims should be ineffectual.

You speak of your experience of the town council as formerly constituted. Has the late change materially improved it as an elective body?—I do not think it has, in this respect, made any material alteration upon it.

What is your opinion as to the effect which may result from having in the town council gentlemen of your own profession?—By the former constitution of the town council, the practice was to have one medical man a member *ex officio*; but I do not think it is an accession to the town council, as patrons of the University, to have such men as members, but rather otherwise.

Are those medical men, who put themselves forward for situations in the town council, generally recommended by their high medical eminence, or are they chosen for other qualifications?—I should say that a member of the town council is not a likely situation for a man extensively engaged in scientific pursuits, or in the practical duties of his profession. I do not think that a medical man would be recommended to the constituency of a town council like Edinburgh because he was a good doctor. Some other qualifications would be required of him.

Such men being admitted to the town council, is it not natural that they should acquire a certain degree of predominance in matters connected with the regulation of the University?—Some of my professional brethren have acquired very considerable influence as members of the town council, which sometimes has been advantageous to the University, and sometimes otherwise. On the whole, I do not think that the town council, either as now, or as formerly constituted, are the most eligible body for the exercise of the patronage of the University, and still less are they qualified for the management of its internal economy. There certainly might be a more eligible body.

How do you think such a body should be constituted?—There is one chair in the University of which the patronage appears to me to be in eligible hands, I mean the chair of agriculture, the patronage of which is in the hands of delegates from different bodies—delegates, for instance, from the College of Justice, from the town council, and from the Senatus Academicus. Some such board as this might form a very good body of patrons.

Does the commission to the professor to the chair of agriculture run in the name of those delegates, or is it made out nominally by the town council?—This I am not aware of.

Should such a body of patrons be numerous or small, in your opinion?—It should be limited, in point of number, from three to five, I should say.

Would you be inclined to give a representation in that body to the medical bodies of a town like Edinburgh?—Yes, perhaps to the Colleges of Physicians and Surgeons, and I think it would be desirable to give one to the church. The town council also might send a delegate without disadvantage, as representing the constituency of Edinburgh. I have not considered this matter maturely, but I think that the Government, the town council, the church, the college of justice, and the medical bodies, might each send a delegate.

You think there is no incompatibility in such a body exercising both the patronage and the control over the internal regulation and discipline of the University?—I am not sure whether the internal regulation of the University would not be better placed under a University court distinct from this body of patrons. I think that the interference of the town council in the internal regulation of the University is in a great measure prejudical to its reputation; they are a body quite unfit for this purpose. They are considered so both here and abroad. I speak chiefly in reference to conversations I have had regarding this matter when serving with the army in other countries.

Has such interference been used prejudicially to the College in some instances?—I think it has on all occasions been used disadvantageously to the character of the University.

Has there been a vexatious intermeddling with some parts of the discipline which the town council is not capable to judge of?—That is my opinion.

Could you trust to a University court, or to such a board of patrons as you have suggested, not interfering vexatiously in such matters?—I think there is reason to believe that their interference would, generally speaking, be more advantageous, and more in character, than that of the town council.

Is this not the prevailing opinion among scientific and professional men?—It is.

Has the interference of the town council a tendency to lower the character of your degree in this country?—I think it has; the curriculum being liable to the control of the town council.

Have you paid particular attention to the University court, as suggested in the Report of the University Commission?—I have gone over the Report, and I think that the constitution of the court is not very objectionable, but, perhaps, the powers proposed to be conferred on it are so. They go a little beyond what I would wish. It seems to me that in such a court all the interests are duly represented; but I decidedly disapprove of the extent of the powers given to it.

No. XIX.—*Examination of Professor Syme.*

Examination of Professor Syme. (12th July, 1834.)

No. XIX.

You are professor of clinical surgery in the University of Edinburgh?—I am.

Looking at the University as a great medical school, do you think its patronage and internal regulation have been well entrusted to the town council of Edinburgh?—I think the patronage might be in better hands. The number of the town council is prejudicial to the proper discharge of their duties. It diminishes their responsibility, by dividing it. The members, whether we regard their class of life, or their pursuits, can hardly be expected to be well qualified for acting as patrons or managers.

Is the town council a fluctuating body?—Yes; and this I have always considered as a great objection. It tends to render them indifferent to the opinion of the public. They are not, in general

the sort of people that any tenure of office would much improve; and my chief objection to their short stay in office is, that they are not restricted in their proceedings by any deference to public opinion.

Do these objections, in your opinion, apply to the new as well as to the old town council?—I should think fully as much to the new town council, or more so. The old council was composed of a few wealthy and influential persons, with a number of members decidedly inferior in these respects. The former, whose means of judging were better, controlled the latter considerably. In the present council all are on equality originally, and may be expected, in general, rather to derive importance from the office, than to possess it in the eye of society on their own account. The eligibility of medical men is also decidedly objectionable in both respects, whether as patrons or managers.

Are the medical members of the town council chosen, or likely to be chosen, from their medical eminence?—I do not think it likely that any man much devoted to the cultivation of medical science, or much employed in practice, would desire a seat in the town council.

From your experience of, at least, one election, is it known to you that the recommendations to the electors are of a kind different from scientific acquirements,—party zeal, for instance?—Surely; medical eminence is no recommendation.

You are aware of a resolution passed lately by the town council,—a sort of self-denying ordinance, —preventing any of themselves from taking office; is this a safeguard with regard to the interests of the University?—If it were to be acted on, it would be a safeguard as far as the individuals are concerned; but I consider the chance of the promotion of his own views to a professorship is the least objection to such persons being elected members of town council.

What do you consider the objections of greater weight?—The influence they may be supposed to have over the deliberations and opinions of their colleagues in the council, both as managers and patrons.

Do you think it probable that members to a certain degree acquainted with professional subjects would be put forward to the management of the University?—It must necessarily be so, because they are supposed to be better acquainted with the subject than the other members.

Do you consider it dangerous to entrust them with power over men of the same profession, and lecturing on the same subjects with themselves?—It is certainly objectionable. It is possible that they may wish not only to annoy, but to injure.

Do you consider that the experience of past times has belied the anticipation that one would make on these *data*? has the town council, in fact, administered its patronage well?—In some instances they might have done better; but the circumstance of their having chosen good men is no proof that they might not have chosen better. One thing it is of importance to notice; they have, with hardly any exception, confined their choice to Edinburgh men, or men connected with it.

Are there many instances within your knowledge where the town council has made what is considered a good election, and has been on the point of making what might be considered a disgraceful choice?—Yes. In many elections they have been very nearly divided.

In the appointment of a medical chair, do you consider that the class of men of whom the council consists are likely to take their views from their family medical advisers?—Yes. As their acquaintance with professional and scientific men is not likely to be extensive, they must be very apt to be guided by the medical gentlemen who visit them.

Has there been much solicitation for vacant chairs by candidates themselves?—Solicitation has generally been carried a great length, both by candidates and their friends.

The canvassers have of course put forth, as strongly as possible, the qualifications of their candidates; have they used other arguments, such as personal favour?—Yes. I have reason to believe so.

Have you ever known a man stand as a candidate for a town councillor, and put forth his claim on the ground that he was qualified to administer well the patronage of the college?—No. I do not recollect of any such claim put forth.

Does it appear to you that men who are chosen for other qualifications altogether, and very often for political considerations, are men in whom the patronage can be safely trusted now, more than formerly?—Certainly not.

From the statement you made of the general choice of Edinburgh men for professors, I suppose you point at the domestic and town influence prevailing over the general sense that they might have superior candidates from elsewhere?—It is partly from local connexion, and partly from the difficulty of knowing what is the public opinion on the subject.

You are aware that a party of the town council sent to Sir John Herschell, requesting him to stand for the chair of natural philosophy?—Yes. But this is a rare occurrence; and every one who knew anything of the matter, knew that he would not take it.

Do you know if they afterwards sought to bring from a distance men of the greatest eminence and qualifications for the vacant office; or did they fall into the old form of solicitation by candidates?—I should think that they went on in the old form, from the circumstance of one very desirable candidate in London not having a vote.

There has been a practice, owing perhaps to the nature of the electing body, of circulating voluminous testimonials; what is your opinion of this practice, as affecting such a body?—It is very much calculated to succeed. Testimonials are the best or the worst evidence. The electors are not qualified to judge as to these points. At all events, testimonials can only be an abstract statement as to the qualifications of one candidate. The writers of the testimonials do not know who the other candidates are. There may be cases in which it may be possible to give a comparative opinion, but very rarely.

Do you think men of eminence and high character give testimonials on urgent entreaty, when they would not be willing to support the persons to whom they gave the testimonials?—I think so.

In considering the disadvantages of the town council as an electing and managing body for the college, have you ever thought of any body that could be substituted for it to discharge both functions?—I have not thought how such a body is to be selected; but I have no doubt as to what would be the best body, if it could be got. It should be a small body, not exceeding four or five; the members should hold their offices either permanently, or for a considerable period. As to their qualifications, they should be men moving in such a rank in society, and sufficiently acquainted with literary and scientific men, as to be able to form a judgment of the merits of the candidates, or as to the opinions of others in regard to their merits.

Would you have them to be professional men?—I do not think this would be any objection to them.

Would you have them connected with the college?—I should think it would be unsafe to restrict

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their election to any bodies,—to make them as it were the representatives of any body. I should like the field as open as possible for the election of proper men. The difficulty is to find a nominating power in whom no improper motive can exist. I have sometimes thought that the Crown would perhaps be the best.

You object to their representing particular bodies,—I conceive that you are afraid of their running into factions?—Yes. That they would be bound to further the interest of their own constituents. I should like the field of choice as free as possible, and the patrons as unfettered as possible, and to have nothing but public opinion to control them.

Do you think that this body should be limited to the management of the University of Edinburgh, or would you make it a general board for directing the education of the country?—There might be a supreme body to regulate the whole; but I think each University should have a body to regulate itself.

Can you see any difficulty in a body, constituted for the purpose of exercising the patronage, taking charge also of the internal regulation and discipline of the college?—I see no difficulty in this.

Should you be inclined to leave much power to the professors in their individual classes, and to the Senatus in the University management?—I think there might be a great many matters that might be left advantageously to them; but others should be managed by that external body.

From a body so constituted as you have described, with a considerable endurance of office, you would not be afraid of any vexatious intermeddling?—Certainly not. The thing is possible; but it is not likely.

Do you conceive that if such a body were, on every vacancy, to keep their views steadily fixed on one eligible person, that it would have a material effect in raising to a greater point of eminence our University than it has hitherto held?—There can be no doubt of it.

Do you look upon the past eminence of the University to have been in some degree independent of the system of patronage exercised over it?—It is difficult to answer this question. So far as I have any experience, the town council have not been able to prevent it from maintaining its character.

How do you meet then the general argument, that the system of patronage has worked well; that under that system the University has arrived at the point of respectability which it now holds, and why should we change it?—Because it might have been better. There is now greater competition in teaching than formerly, and it is more necessary to support its character by making the best elections.

Do you consider that the prosperity of the University of Edinburgh followed the rapid advancement of the country in all respects?—I think so. It was the want of a good system elsewhere, the system here being a good one originally, and followed out.

Has it derived some advantage from the English medical schools having no power to give degrees, while their Universities have no medical instruction, and from the English Universities excluding dissenters?—Certainly. And if that system were remedied, it would require greater energies in the University of Edinburgh to keep its eminence against bodies in a better place. The power of giving degrees in any body in London would interfere with the interests of the University of Edinburgh in its present state. In like manner, if other Universities in Scotland were to be placed under better management, and more illustrious teachers, Edinburgh would require more strenuous exertions to keep its own place; and I conceive that the present system is not likely to obtain men of the highest merit to fill the vacant chairs; nor is the system of management such as to give them fair play. As an illustration worth mentioning, I think the conduct of the town council, in regard to the chair of chemistry, would render it extremely difficult to get a selection of chemists of the highest character, were that chair to become vacant. I allude to the chair of practical chemistry which they have declared that they will establish.

As a scientific man yourself, do you think the class would be better taught by being subdivided; having a practical and a scientific chair?—I can hardly conceive that it could be well taught by two independent teachers. It would lead to many practical evils. The one branch is dependent and illustrative of the other.

Would it not be likely to open the door to the teaching of rival classes?—Yes. To put two independent teachers of the same branch in one school would engender between them bad feelings, and would prevent the branches being properly taught, as the one depends on the other, and they ought to be taught by one person.

No. XX.—*Dr. John Campbell, President of the Royal College of Surgeons, Edinburgh, examined.*

Examination of Dr. John Campbell. (12th July 1834.

No. XX.

Have you turned your attention to the working of the system of patronage of the University of Edinburgh?—As a great medical school, I am much interested in the welfare of the University of Edinburgh; and I have access from local acquaintance to know how it works, as to its system of patronage, and also discipline, and other matters. I was a member of the town council a year previous to the late change. There was then a vacancy in the chair of natural philosophy; and a question also came before the town council as to the appointment of a separate chair of practical chemistry, and it is only in these instances that I had access to know, from my connexion with the town council, how the system of patronage was managed.

Have you witnessed the mode of canvassing, and of supplying the vacancies in the University?—Without entering into details on the subject, I may state that I know generally the mode in which canvassing is conducted.

Was it in general, or at any time, a mere contest between the merits of candidates? Were the merits of the candidates taken into consideration by the electors?—That so far involves my opinion as to the motives that influence the electors. The patronage is at present so vested, that other influences may have effect; and on that account I consider, generally speaking, the system objectionable. It is true the system may be said to have worked tolerably well, and the patronage, on the whole, to have been judiciously exercised; but still I consider it susceptible of much improvement. The mixed patronage, which exists here to a limited extent, has also worked well.

What influences do you point at?—More especially to the number of the electors, and to their being a fluctuating body. In respect to the number, when there is a plurality of candidates in the field, the attention of the electors becomes distracted, and they fluctuate between the merits of the candidates. Besides, as a portion of the electors are not well qualified to judge of or to appreciate the merits of the candidates, it may happen, when the votes become nearly balanced, that those individuals who are

the least competent judges, or most apt to be swayed by political or other feelings, may turn the election the wrong way. On account of their number, the responsibility becomes too widely diffused; and the same objection is applicable in respect to their want of permanency. Injurious coalitions may also occur amongst the electors, by one of the candidates withdrawing immediately before an election, upon an understanding with one of his opponents as to a union of their interests. I may also add, that from the exercise of this patronage forming only one part of their functions, and from their being subject to constant solicitations and canvassing, the electors become too much disposed to view it as dispensing a favour, and less as fulfilling an important public trust.

Can you give us, without going into any unpleasant details, the general plan of proceeding when there is a vacancy in the college?—The general plan is to signify the vacancy, and to allow candidates to present themselves. There have been one or two exceptions,—one or two instances in which the chair has been offered to an eminent individual; but the general plan is to allow candidates to solicit the chair. Testimonials are then given in by the candidates, and these are submitted to the town council.

Is there, in the progress of a canvass, much personal solicitation by the candidates?—Yes, by the candidates and their friends; such influential friends as they can bring forward.

Was the general class of the electors of sufficient note to throw aside the effects of such general solicitation, or might they, in some instances, be assailable by such means?—The class of electors ought to be of a higher station in society, and better able to judge them than they generally are. In reference to their being open to solicitation, I may state, that the great mass of the town councillors was formerly, and still is, composed of merchants and shopkeepers, respectable men in their own station; and, no doubt, the solicitations of their customers may have considerable influence with them. I am not aware, however, that this has been brought to bear upon them, but I have heard it said so. I do not know any instance of it myself. I may remark that, in my opinion, men who have attained to great eminence by the possession of extensive scientific acquirements, or profound erudition, ought to be sought after, and not subjected to the degradation of a canvass. And they ought to have some more certain guarantee of their merit securing to them the distinction of an academical chair, than what they can reasonably calculate upon while their success depends upon the contingencies of an election as at present conducted.

Do you think that there may be another sort of influence, of a more innocent kind, which must weigh with the electors of town councillors; that influence which medical men must have over a less educated class whom they visit?—Yes; this must have a considerable influence in settling medical chairs; and I should doubt much if the influence of medical men would, upon the whole, conduce to the best appointments. It is a state of matters that ought to be avoided.

Was there any large number of medical practitioners members of the town council under the old system?—There were sometimes two. I was in the town council, *ex officio*, as president of the College of Surgeons. The president that went out might be elected convener of the trades; and it might thus happen that two medical members might be in the town council. This is now very much altered, only that the president of the College of Surgeons might still be a member of the town council, if elected convener of the trades. There are at present three medical men in the town council.

Have these three been chosen from their high station in their profession?—I should rather say that the members of the town council are chosen for their political opinions.

In addition to party politics is there a good deal of party feeling, and sometimes acrimonious feeling, amongst the members of your profession?—There has often been; but there is less of it at present than formerly.

Allowing for the two principles operating,—the strong political bias, and the occasional feelings of party in your profession,—do you conceive that the town council could be rendered a better body of patrons for the college by the introduction of medical men pretty determined in their sentiments on both subjects?—No; I do not.

We have spoken hitherto with regard to patronage; do you consider the town council better fitted for the internal regulation of the college than they are for exercising the duty of patrons?—I do not. I should think that a body composed generally of men in the middling classes of life, not highly educated, and who are subject to the prejudices and the influences talked of, are almost the worst constituted body for managing the internal regulation of a great seminary of learning. Their interference might be frequently ill-judged, proceeding from ignorance, and sometimes might possibly be vexatious from other causes than ignorance.

Can you conceive, independently of the power of appointing professors, some occasions in which these medical members of the town council may materially interfere with the proper regulation of the college?—Yes; I think so. It is possible that medical men, members of the town council, may have interests at variance with the University, either as private lecturers, or interested in private lecturers, and who may be anxious to interfere with the curriculum for degrees.

Does it not appear to you highly probable that a set of imperfectly educated councillors will intrust the management of a literary institution with which they are not very conversant to men of their own body who are better educated?—The natural tendency of such councillors is to confide in the opinions of others better educated than themselves. They may receive a wrong bias from their medical and other advisers, and are apt to be overwhelmed with so numerous and such conflicting opinions, that they find it difficult or impossible to form a proper judgment.

But does it not appear to you that the town council are apt to delegate their management of the college to the medical men of the council?—In respect to general management the council appoint a college committee, of which I understand medical men at present form a part, but of which the convener, termed the college baillie, has not (of late years at least) been a medical man. As to the filling up of medical chairs, and some other matters, I believe the influence of medical men in the council to be often very great.

Has it ever occurred to you to plan any other system by which the college discipline and patronage might be more safely managed?—I never planned any thing in particular in regard to this. I have read the Report of the College Commission. They suggest the formation of a University court, which, with perhaps some modifications, might prove beneficial.

That Commission only suggested the University court to control the discipline, not in respect to the patronage. Might not a court be devised competent for both duties?—I am not altogether prepared to give a decided answer to the question. Probably a court of well-qualified individuals, not too numerous, might be advantageously formed to judge of the internal regulations, and also of the patronage.

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Have you thought of the elements of such a court? Of whom should it be composed?—A mixed patronage, composed of delegates from different public bodies, has been suggested. Or the patronage might be advantageously vested in commissioners appointed by the Crown, which would form an efficient board for such a purpose. In either case the number ought to be very limited, and the board made comparatively permanent. Such a plan would be liable to fewer and less important objections than those which are applicable to a system which would place the patronage in the town council, in the Crown, or in the academical body itself; which latter I consider as the most objectionable of all.

To avoid party influence, should they be appointed for a considerable time?—Decidedly, that they might not be the mere creatures of the day. They would, besides, acquire a facility and skill in conducting the business from the length of time they held office.

Do you conceive that the opinions you have now expressed, with regard to the former system, are very general in your profession?—I believe they are divided in opinion. I have not conversed with many on the subject; but I believe the majority are satisfied that there should be a better-devised plan as to the patronage and internal regulation.

You alluded to a matter that had come under your cognizance while you were in office in the town council,—the chair of practical chemistry. How was it entertained in the council?—They came to a vote on the subject. A distinct motion was made for the appointment of the chair, and a counter-motion, which I made myself; which motion of mine was only carried by the casting vote of the provost.

Did you take the opinion of the Senatus Academicus with regard to that appointment?—Their opinion, which was given in the form of a report, was against the appointment, and the report was made to the council before we came to a vote on the question.

Was there any person particularly in view to be appointed to that office when the creation of this new chair was proposed?—Decidedly there was. There were papers circulated in behalf of a candidate in the first instance, and afterwards other candidates appeared in the field; and both sides of the question were discussed, I mean as to creating or not creating the new chair.

Did it appear to you, and those who acted with you, that personal considerations were too much mixed up with the matter?—Such was my impression.

Was the name of one of the candidates mixed up with the discussion as to the propriety of the creation of the chair?—The opposing statements made by the professor of chemistry, and by his assistant, were circulated amongst the councillors, and it appeared to me that many of the electors did not sufficiently separate and consider by itself the general question as to the expediency of creating a new chair, but that they viewed the matter in a partial and prejudiced manner, in reference to particular individuals.

Were politics very much the bond of parties in the council with regard to college patronage?—I could not say that they were invariably. I should say, in general, that there was a very considerable tendency that way; but there are examples to the contrary.

Do you think that particular tendency is altogether obliterated in the present town council?—No; but considerably increased.

Are you of opinion that if a man were to come forward as a candidate on high Tory principles, however well qualified, he would not stand so good a chance as an inferior person calling himself liberal?—I believe the bias would be against him. I am of opinion that political feeling would operate to a considerable extent.

I presume no instance has come within your knowledge of a man being elected to the town council on account of being well qualified to exercise the patronage of the college?—I am not aware of any such election.

No. XXI.—*Dr. John Macwhirter, Vice-President of the Royal College of Physicians, examined.*

Examination of Dr. John Macwhirter. (12th July, 1834.)

No. XXI.

How long have you been vice-president of the Royal College of Physicians?—Since retiring from the office of president last year.

Have you resided long in Edinburgh?—Since 1823, with the exception of two years. I have been a practitioner in Edinburgh since 1826; formerly I was in extensive practice in Calcutta.

Do you think that, as a medical school, the patronage of the University of Edinburgh has been entrusted to the best hands?—I do not think that it has. In certain instances the patronage has not been very well exercised; and, in other instances, it has been very ill exercised. Individuals too have been put into chairs who were not qualified for the office at the time, although they made themselves eminently so afterwards.

Have you been acquainted with some instances where good appointments have been made, according to common opinion, but which were very near being negatived in a way that would have been disgraceful to the University?—I have.

Will you give me your theory as to the reasons which have made the town council bad patrons?—I consider that they are most of them of such a grade in society, that they are apt to be influenced by irresponsible individuals among their constituents, or by those that deal with them in business. In a case of canvass in which I took an interest, I discovered that a patron, who acknowledged the successful candidate to be the fittest person, gave his vote to another, in consequence of solicitations from those who had it in their power to put trade in his way.

Are you prepared to say that the present constitution of the town council has made a great improvement in the administration of its patronage?—No. Its constitution, as regards its fitness to exercise patronage, is little altered, except in one respect. There are now medical men in the town council, who would be better out of it, in so far as the patronage of the University is concerned. No man in the first grade of our profession would have time to attend to the business of the town council. And, moreover, no medical man placed there ought to have a voice in the filling of a medical chair.

When medical men become members of a town council, is it not the fact that they acquire an influence, and have handed over to them, to a great degree, the regulation and management of the University under their charge?—I should suppose so; and my opinion is, that you cannot get men of proper station in our profession to be town councillors; and chairs might thus be filled up so as to disgrace and ruin the University.

Considering it in another point of view, besides the appointment of professors, are there numerous cases in which a set of second-rate medical practitioners, being members of the town council, may

prove injurious to the college in its regulation and discipline?—Certainly. They might have interests opposed to those of the professors in the college, either as private lecturers themselves, or as being interested in private lecturers.

Being of opinion that the town council was not, and is not, a fit body for the patronage and administration of the college, have you ever turned your thoughts to fixing upon any body that might exercise these duties better?—I have thought that such a body might be formed from various other respectable bodies; such as advocates, writers to the signet, the Colleges of Physicians and Surgeons, the Senatus Academicus, and the clergy, who might select a certain number from among themselves to form an elective body, which, however, should not be too numerous. I would not like it numerous, because, if it were so, the members would not act under the feeling of strong responsibility, which it is desirable should actuate every individual of so important an elective body.

How would you remedy the common evil felt in such bodies, of too great a political bias? Would a permanent appointment, or an appointment for a considerable time, have that effect?—I would appoint them for five, seven, or ten years, but no longer. Any of these periods must give them such an acquaintance with the duties of their office, as to render them useful in this respect; and they might go out in rotation. The period should not be less than five years, and not more than ten. I also consider that such a board should be local, because a local board must necessarily feel a deeper interest than any other in the prosperity of our University. At the same time, I think a board, constituted as I have proposed, would possess the great advantage over the town council, of being always willing to look beyond Edinburgh for eminent men to fill up vacancies. This is a consideration of some consequence at present, as there are some chairs, that of chemistry, for instance, which, in the event of a vacancy, it would be difficult to fill without looking to a distance.

The remarks you have made on this particular chair lead me to inquire a little further in regard to it. I mean as to the chair of practical chemistry. Do you think the town council have exercised a very sound discretion in the creation of that chair?—I certainly do not think so: they will ruin the chair of chemistry by dividing it. You will never get a man of the high qualifications requisite for teaching it as it ought to be taught, if his profits are to be divided by the creation of a chair of practical chemistry.

Were you acquainted with the proposal made with regard to that chair by the town council to the Senatus Academicus?—No; our college is never consulted in such matters; and, as a private individual, I know nothing at all about it.

Do you think it is probable, that if the power of creating degrees in some English Universities, where medical science is really taught, be conceded by Parliament, it will injure Edinburgh, as a medical school, in a great degree, or drive it to make greater exertions to have teachers of eminence?—If Government give the right of granting degrees to a University in London, it will injure the University of Edinbugh, as it will keep many English students away, who have hitherto come here for the best medical education extant. Such is my opinion.

You say that you consider it is the duty of patrons to select the best-qualified teachers, wherever they are to be found, whether in England or in Scotland, or abroad;—has this this ever been done by the patrons of the University?—I do not know that it has. I should prefer a Scotchman to any other man, but this is merely from Scotch feeling. I would, however, prefer an Englishman, if better qualified; but, *cæteris paribus*, I would prefer my own countrymen.

You have described to us, that as soon as a vacancy has occurred, it is the signal for a solicitation of a gross nature? Has this been accompanied by shoals of testimonials?—Yes; and of testimonials that are not to be trusted. I have had a little experience as to testimonials, and I do not at all times trust to them. One good certificate from an eminent man would carry more weight with me than fifty others. But, in an unlettered body, there is a risk that the bulk of the testimonials, and the splendour of the terms in which they are clothed, may have too much weight. I am aware, also, that persons qualified to judge, from their good nature and urgency on the part of candidates or their friends, may grant testimonials to persons for whom, if they were placed in the responsible situation of judges, they would not vote. I have been urged in this way, in regard to University chairs, but I have refused in more instances than one, because I was satisfied that the individuals requesting such testimonials were not such as I considered qualified for the office; but I am afraid good-natured men may be sometimes influenced by private feelings, or by the entreaties of friends, to give what they would rather withhold. Such is my opinion of testimonials. I have given testimonials conscientiously, in favour of one who was successful.

You conceive that an individual whom it would be presumption not to trust, if he were placed in the situation of a judge, might not be quite trustworthy always in granting testimonials?—I think so; more especially as testimonials are very seldom given on a comparative view of the qualifications of the several candidates, but from acquaintance with a single candidate only.

No. XXII.—*John Christison, Esq., Advocate, examined.*

Examination of John Christison, Esq. (August 1834.)

No. XXII.

Did you formerly reside with your father, Professor Christison?—I did, till his death, when I was thirty years of age. Since that, my brother, Professor Christison, and I, resided together.

Have you been much acquainted with members of the town council?—I had a near relation who was for many years an active member of the old town council; and I at one time saw a good deal of several of its members.

Have you, by means of those connexions, had opportunities of observing the mode in which canvasses for vacant chairs in the University have been conducted?—I have known more or less of all the canvasses during nearly thirty years; and I took a personal interest, and was intimately acquainted, with the state of two very keen contests for professorships. I may add, that I was well acquainted with a keenly-contested canvass for one of the city churches, which occurred about twelve years ago, and where the successful gentleman had only a majority of one.

In the management of a canvass for a University office, is it usual for the candidate to solicit in person the votes of the electors?—Yes; invariably, wherever there is contest.

Does a candidate also apply to the electors by his friends?—I believe that this is done in all cases; and in the particular canvasses with which I was more immediately connected, many of the candidates brought all the influence they could to bear upon the different members of the town council. The former council was composed almost entirely of shopkeepers and tradesmen, and it was quite common to

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exert the influence of their customers with them. I have no doubt that on many occasions several votes were obtained by means of customers, whom the members of the council were afraid of offending, without the least regard to the merits of the candidate, although the great majority of the town council were, I am confident, actuated by honourable and conscientious motives. I know, from information on which I can rely, that noblemen and gentlemen of the first fortune in the country have applied to their tradesmen in favour of particular candidates.

Is even the conscientious part of the council liable to be influenced by party motives?—There were generally local parties in the town council as well as men of opposite political opinions; and there can be no question that their votes were influenced by their party feelings. In general, on this account, a tolerably accurate calculation could be previously made of how several of the votes were to be given.

Did the members of the town council possess sufficient intelligence in general to estimate the qualifications of candidates?—By no means. It is notorious that Edinburgh is not a place of trade, where there are many extensive and enlightened merchants. The old town council, with an occasional exception or two, was composed of shopkeepers and tradesmen who were quite unfit for exercising the patronage of a great University, and were under the necessity of relying entirely upon the representations of others and common report. I consider that they were peculiarly liable to be misled in the case of a candidate of superficial acquirements who happened to be in possession of a transient and undeserved popularity with the inferior class of students. Of late years the risk of a bad choice was much increased from the prevalent and recent practice among candidates of printing testimonials, by means of which presumptuous men, of no solid pretensions or merit whatever, are made to appear to the ignorant as highly qualified as the most deserving. The abuse of testimonials of late years has been most disgraceful, proceeding in a great measure from the facility with which they are granted by very respectable individuals. It is scarcely possible for shopkeepers or men of a similar class, however anxious in the discharge of their duty, to detect the impositions so practised upon them. A person requires to be well read in testimonials, and to be able to check them by some actual knowledge of the qualifications of candidates, before he can be made fully sensible of how little value these testimonials are as a test of real merit. In consequence of the want of literary or scientific attainments among the town council, it is impossible for them to be judges of rising or of distant merit, and from that cause, as well as from the influence of local connexions, a young candidate, or a stranger to Edinburgh, has little chance of success.

Do you consider that the influence of local connexion prevails with that part of the town council even who are in general above unworthy motives?—It is quite well known that local connexions have very great influence. So much so, that from that cause, as well as for the reason I have just stated, persons living at a distance, except in cases of decided superiority, have very little chance of being appointed professors.

Was *personal* connexion with members of the town council a powerful mean of success?—It certainly was, and I have little doubt that on most occasions votes were procured by means of such connexion. Indeed, connexion with a popular provost, or leading member of council, has, in more than one instance, proved decisive of an appointment, without much regard to other considerations. Upon the subject of the influence used with the town council I may observe, that, in the disposal of some of the leading chairs in point of emolument, it is exerted with a degree of force that it is not easy to resist. I allude to the case of a vacancy in a principal medical chair, where several of the professors, in less lucrative chairs, as is almost always the case, become candidates in the hope of each getting a step. In this way it happens sometimes that the influence of three or four well-connected individuals is brought to bear in favour of a single candidate. For example, in my brother's late canvass for the *materia medica* chair, it was the interest of all who had any expectation of succeeding him in the medical jurisprudence to promote his views. And upon Dr. Gregory's death, four different gentlemen got professional appointments and promotion in the college, who, with their numerous connexions, were all interested to exclude any candidate unconnected with the University from succeeding Dr. Gregory. Where there is such a combination of influence, it must have a certain effect under any system of patronage, but it would probably not operate so extensively were the patrons men of higher station and of more distinction than at present, and also fewer in number, so as to act under a greater feeling of individual responsibility.

Was the old town council much under the influence of particular individuals?—I always considered it very unfortunate that the deacon or president of the surgeons was a member of council. He was the only person of a liberal or learned profession in the council, and had necessarily, but more especially in medical matters, a much greater influence than it is safe for a single individual to possess over a numerous body of electors. His influence was the more dangerous, that he was the head of a body containing an association of private lecturers, with rival or sometimes hostile feelings to the University, and a member of a profession whose dissensions, at least in Edinburgh, are so great, that it is very undesirable that considerable influence in the disposal of patronage should be enjoyed by any single individual of it. I ascribe the origin of the quarrels and animosity which now exist between the patrons and the professors of the University in a great measure to the deacon of the surgeons. This is the opinion of many of the professors, and I have frequently heard intelligent members of the council make the same remark. Particular individuals, not of the council, had often considerable influence with the members. Certain professors at times had influence; and leading churchmen of both parties, in consequence of the church patronage, made it their business to cultivate the favour of members of the council.

In the different canvasses with which you were acquainted, was the conduct of the members of council generally fair and unexceptionable?—The conduct of most members was so, not of all. In every keen canvass there was a great deal of intrigue and meanness, and on the part of the candidates unavoidable degradation. It was painful to witness the expedients which men of literature and science were in a manner compelled to resort to, if they looked for success. A canvass for a professorship was no way different from a canvass of old for a seat in Parliament. What he had to encounter, if previously aware of it, was sufficient to deter a gentleman of spirit and of independent circumstances from becoming a candidate.

Do you consider the practice of appointing assistants and successors during the lifetime of professors to have been injurious?—I consider that the practice of appointing assistants and successors is very dangerous, and liable to great abuse, as such arrangements are generally patched up in private, and abridge the field of competition. I know of one instance where the acting professor got less than one-fourth of the emoluments of a lucrative class, and was burdened besides with an allowance to the

widow of the principal. The appointment turned out a good one, but it might have been, for anything the council knew, quite the reverse.

Do you consider the present town council better qualified to be patrons than the last?—I do not think so. They may represent more completely the popular feeling of the place; they are more active and clever men, and they may probably manage better the ordinary municipal affairs of the city; they cannot do it worse. But they are in no respect better qualified to be patrons than the last council. They are for the most part men of the same class, and not men of liberal professions, of station, or of acquirements in literature or science. In one respect I think they are worse than the former—they are, if possible, more exclusively political partisans. It is also in my opinion unfortunate that there are so many members of the medical profession in the new council. Of these one circulated an advertisement during his canvass offensive and disrespectful to the University, in which he talks of the rapidly accelerating ruin of the University, or uses similar expressions. Another is a private lecturer, and one of an association of private lecturers, of whom several have united in a very extraordinary league with St. Andrews, to give degrees in medicine. He is not himself an examiner for these degrees, but his brother is, and several of his colleagues. I consider this gentleman's situation as actually incompatible with that of an impartial patron of the University. Under the present town council the dissensions with the professors have been greater than ever. Their chief interference has been with the medical professors.

Keeping in view the prosperity of the Edinburgh University during the last century, do you think the present system of patronage so bad as to make a change desirable?—I should be decidedly in favour of a change, though it is extremely difficult to get a properly-constituted body of patrons. I should think the Crown, or a minister of instruction resident in London, the worst of all. That system might do well enough for London, Oxford, and Cambridge, as public opinion would restrain undue influence and improper appointments. But in regard to the remote and provincial institutions, the patrons should be connected with the several cities interested in their prosperity, and under the control of the public opinion there; otherwise favouritism and jobbing would inevitably take place. I am against the professors being patrons.

Do you consider the prosperity of the University hitherto as a proof of the good management of the town council, or has it arisen from causes independent of the patrons?—In regard to the past prosperity of the University, I cannot ascribe it in any degree to the town council, who, it is notorious, were unfit to manage the ordinary affairs of the city, or even to exercise common petty jurisdiction, and were obviously much more disqualified for superintending and being patrons of a great University. Other causes must be looked to for the celebrity of the University. During the last century, there was an unexampled succession of first-rate men in every line, so that scarcely any system of patronage, however faulty, could work absolutely ill. Making allowance for the advantages enjoyed by Edinburgh, as the *Capital*, and the seat of law, the other Universities were equally prosperous, and particularly Glasgow, where a system of close and professorial election prevails, which is generally and justly condemned. From the time of Dr. A. Smith, Dr. Reid, Simson, Miller, Cullen, (who was first at Glasgow,) and others, down to the present day, there have been a succession of able men there; and in the reputation of the University, as well as the numbers of the students, it has kept pace with Edinburgh. No person, I believe, ascribes the prosperity of Glasgow to the professors being patrons. I should think still less of benefit can be ascribed to a system of patronage so absurd as that which exists here. It is not enough to say the system has worked well. During a century past, and since the Union, Scotland has made such rapid strides in every department of agriculture, commerce, the arts, as well as in literature and science, that it required a great deal of mismanagement to check her progress. I have heard the general prosperity of the country ascribed to the late war, and the exhaustion occasioned by it traced to the peace, because the events were contemporaneous. I have heard that the commercial prosperity of Britain was owing to the fetters and restrictions imposed upon her trade. I think those who ascribe the prosperity of Edinburgh University to the town council are very much on a par with these reasoners. It is for various reasons difficult to determine whether in point of fact the patronage has been so well bestowed as is pretended. It is a delicate thing to inquire into or give evidence as to each individual appointment, and it is impossible to appreciate the greater advantages which might have been derived from a more enlightened and discriminating patronage, in selecting rising men, or men of eminence from a distance. I may further observe, that on very many occasions, where a bad appointment was not made, the successful candidate was often successful by a small majority, and from accidental influence, and that the risk of an injudicious selection was generally considerable. It further appears to me, that the proper exercise of patronage is a more difficult thing than formerly, as really there are now fewer first-rate men decidedly superior to others in the different departments. On the other hand, the University, particularly the medical branch, being exposed to a much more formidable competition with London than before, and elsewhere, the evil of a single unfortunate choice would be very great.

Are you aware that the town council has the power of regulating the discipline and economy of the University, including the power of regulating the course of education and the qualification for degrees?—I am.

Do you think such power has been properly vested in that body, and has been judiciously exercised?—It appears to me most absurd that a body so constituted should have the power of regulation and control possessed by the town council; and I know that of late years it has been exercised in a manner pernicious to an extent of which the public have no conception. For a long time, the actual interference of the town council was trivial and nominal. During my father's time, except upon the application of the professors, they did nothing. But about twelve years ago an appeal was successfully made by Dr. Hamilton to the town council to have his class made imperative on students applying for medical degrees. Since that time the interference of the town council has been repeated, and has increased every year, till at length it may be almost said that they take the entire management and control of University matters into their hands, and they conduct it without even consulting the professors. It is an undoubted fact, that of late several very important regulations affecting the interest of the University, and of the individual professors, as well as of education generally, have been enacted by the town council, without consultation with, or even the knowledge of, the Senatus Academicus. For a detail of the particular measures alluded to I think it best to refer to the professors; but in my opinion many of the regulations were of the most ignorant, capricious, and injurious description. I feel convinced that in several very recent instances the town council were unconsciously the mere tools of individuals hostile to the University, whose designs they had not sufficient intelli-

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gence to penetrate. It has always appeared to me truly surprising that such a body as the town council should have had the boldness and presumption to interfere to the extent they did with matters of so much importance, and so much beyond their comprehension. I know that, in consequence of the interference of the town council, a feeling is general among the professors, that the University has been deeply injured, and that they individually, and as a body, have been treated with disrespect and even with insult, from which they would have been exempt, had the patrons been men of higher station and of more refinement. The dissensions between the University and the town council have reached such a height, and are so incurable, that I think it essential to the safety and prosperity of the institution, on that account alone, that there should, at all events, be a change in the power of college regulation and control. I know, and have regretted to observe it, that the exasperation of the professors is very great, and I think well founded. Much of the time of some of them inclined to cultivate scientific and professional pursuits has been most unworthily, and with loss to themselves and the public, thrown away upon the constantly recurring and disgusting dispute between them and the council. When once the town council commenced the system of interference, a quarrel between them and the professors was almost unavoidable, from the composition of the governing body. Inferior in station and acquirements to the members of the University, even when their measures might be right, they did not carry sufficient authority with them. Hence, on the one hand, a harsh assertion of power commenced; and, on the other hand, possibly some degree of disrespect in the resistance, till at last matters came to such extremity, that all courtesy and co-operation are at an end. The dissensions are so great, that, contrary to what I have mentioned as formerly the case, I think that, in the event of a vacancy, a professor in a less lucrative chair, if a man of spirit and independence, would be at the present time unfavourably situated in a canvass.

Do you consider these feelings you mention to be general on the part of the professors?—They certainly are very much so, although to what precise extent there may be exceptions I do not know. Unanimity can scarcely be looked for among so numerous a body. Some are averse to public discussions,—some are advanced in life, and others, for obvious reasons, wish to be well with the town council. It cannot be expected that a professor, if there be such a one, who owes his appointment to local connexions, should denounce the system of patronage under which he was appointed, or that another, whose class has been introduced against the opinion of his colleagues into the curriculum, should deny the intelligence of his friendly legislators. I have observed that the number of the professors who are dissatisfied with the management of the town council is increasing. I know of more than one instance among professors recently appointed. There are others, who were once reputed to be not unfriendly to town-council patronage and legislation, whose present general opinions on these subjects I do not know; but the other day, in relation to an act of the town council regulating the Natural History Museum, and passed without the knowledge of the University, they concurred in a series of resolutions the most decided that I have heard of, to the effect that the professors should resist at law, should apply to the Crown, and appeal to the public. I also believe that they concurred in the unanimous opinion of the medical professors, that the institution of a practical chemistry chair, as voted by the council, was injudicious. The professors most hostile to the powers of the town council in regulating the University are the medical professors. This arises from the interference of the town council having been greatest in regard to medical matters. I ascribe this partly to the intermeddling of the medical members of the council, partly to the greater emoluments of the medical chairs, and the greater individual interest which professors had to get their chairs introduced into the curriculum, and partly to the council finding it practically impossible for them to legislate for the other professions. Had they done so in education for the church, the bar, or the writers to the signet, the different bodies interested would have treated their interference with contempt. The medical students have no similar protection to look to. As an instance of the fitness of the town council to regulate the University, I may refer to their mode of regulating a mere grammar *school*. It was felt a very few years ago desirable to have French taught in the high school, and, by an act of council, the five teachers selected solely for their knowledge of the dead languages were at once ordered to teach this living one. That ordinance is still in force. As the strongest illustration of my opinion in regard to the unfitness of the town council to exercise the patronage and superintendence of the University, and the bad effects likely to follow from their *more recent* conduct and interference, I may mention that I have, of late, repeatedly urged my brother to let it be known he is desirous of leaving this, and to avail himself of any suitable employment in London which he might be able to procure. This recommendation has been seriously entertained by him, with no previous wish or intention to quit Edinburgh, but solely on account of the past measures of the town council, and of others, in contemplation, against the adoption of which there is no security, how pernicious soever they may be. To several of the gentlemen of the commission it may be known that this is the feeling not of a disappointed, but of a successful man. The fact is, that he had last year the most numerous medical class in the University, not excepting chemistry.

No. XXIII.—*Dr. Edward Turner, Professor of Chemistry in the London University, examined.*

Examination of Dr. Edward Turner, London. (9th September, 1834.)

No. XXIII.

You are professor of chemistry in the London University?—Yes.

You were educated in the University of Edinburgh?—I graduated here, but studied chemistry in Germany after leaving this University, and then returned to Edinburgh.

How long is it since you left Edinburgh?—It is six years.

Had you occasion while here to be acquainted both with the system of teaching in the University and with several of the professors?—Yes. I was aquainted with most of the professors, and intimate with several. I am also acquainted with the modes of teaching in the different classes of the University.

Were you, when in Edinburgh, acquainted with the peculiar constitution of our University in regard to the matter of regulation and patronage?—Yes; it was under the patronage of the town council, and those patrons were also the directors of the internal management and regulation of the college. It had been a question, before I left Edinburgh, how far they were so; but previously to my departure the subject of Dr. Hamilton's chair had been discussed, and the right of the town council to render attendance on his class compulsory. Their having established that point indicated of course that they had a right of general management and regulation.

Are you aware that since the question was so settled the town council have virtually exercised the whole regulation in regard to the studies in the University?—I have understood so, and particularly of late.

And that they regulate the education for the particular professions and degrees?—Yes.

And that they fix and modify the fees?—I have heard so.

That they are not challenged in their exercise of the right to create new chairs in the University, and to subdivide that which was formerly the subject of a single professorship?—These I believe to be the powers of the patrons at present.

Are you aware of the constitution of the town council?—Generally, I am. A change has taken place in the election of members of the town council since I left Edinburgh.

How was it constituted formerly?—With the exception of one surgeon, a member of the College of Surgeons, and *ex officio* a member, it was composed of shopkeepers and tradesmen.

Did you think that a body so constituted was well qualified to exercise the various important duties of patrons, and for regulating the internal government of the University?—I think not. Their education, pursuits, and station in society, are not such as to make them judges of the attainments of literary and scientific men, or of the wants of academic institutions. Their number (33) is of itself a considerable objection to them as patrons, as it divides the responsibility too much. Individuals do not feel much responsibility for their conduct when it is so divided.

Are you aware that the town council is a fluctuating body?—I always understood so, but this, I should think, is not necessarily an objection in itself.

Would a rapid rotation of office be beneficial to them as patrons?—Taken alone, I do not see any objection, either one way or the other.

Do you consider that it requires men of very high scientific education and qualifications in literature and science to be reasonably good patrons?—The patrons should be men of good education, and associate with the educated classes; otherwise they cannot form an independent opinion either of the qualifications of candidates for professorships or of the *curriculum* of an academic education. Also their station in life should be such as to be above being influenced by their own private interests.

Are you aware that there have been considerable fluctuations of opinion as to what is the proper *curriculum*?—Yes.

Do you consider that the trusting of its arrangement to the hands of the town council is expedient?—Unquestionably not. To determine the requisite courses of study in a University, it is necessary to be acquainted with the state and progress of the subjects which are taught. Persons ignorant of law can scarcely prescribe a course of study for law students. In arranging a medical curriculum, reference should be made both to the state of medicine and to the regulations of the Universities.

With regard to that other power which was spoken of, of creating and subdividing professorships, is that a mere theoretic evil?—Certainly not.

Have you had occasion to hear of any instance in which the town council have exercised not a sound discretion in these matters?—Yes, very recently. The question now pending is one of that nature—I allude to the appointment of a teacher of practical chemistry, independent of the professor of chemistry.

Have you heard that that measure was at one time carried by a vote of the town council?—I have understood so, from having received a letter from one intending to be a candidate, expressing so much.

Do you think that such an appointment would have been beneficial or otherwise to the college and to that particular class?—I think it would be very injurious, and can perceive no advantage likely to result from such an arrangement. The teacher of practical chemistry, if not the professor himself, should be under the direction of the professor. The arrangement at present contemplated, and indeed the mere agitation of such a question, will be a serious obstacle in filling the next vacancy to the chemical chair. Chemists would not quit an inferior situation to fill a chair which might afterwards be subdivided at the pleasure of the town council. This remark is applicable more or less to every other chair.

Do you consider that the chemistry chair of this University was previously to this measure perhaps the most desirable chair in the University?—Yes, and I dare say the most desirable in Europe. I do not know any chair in any University so valuable.

Is this now considerably altered?—I think so. There was a time when a person situated as I am would look to the chemistry chair in the University of Edinburgh as the highest reward of his exertions; but the chair is now much less desirable than it was, and that not only from what has been already resolved on, but from the fear of other changes which may follow such a measure.

Do you think the fees are too high here?—I should think not. It is not, I conceive, for the interest of the University that they should be lowered. Unless a professor have a proper reward for his exertions, you cannot expect to be supplied with men highly qualified for the proper discharge of their duties.

Would lower fees have the effect of increasing the attendance of students?—I should think not—not professional students, where the fees are not exorbitant.

Do you think that it requires a somewhat higher inducement to bring a man of first-rate science to Edinburgh than to London?—Certainly; London is a very desirable residence to a scientific man, and the inducements to remain there are rapidly increasing.

You pointed pretty distinctly to the fact, that you would not be disposed to take a situation in this University under the present patronage?—I have no hesitation in stating that the present mode of management would be a weighty argument with me against accepting a chair in Edinburgh.

Have you attended to any of those instances in which the town council and Senatus Academicus have come into collision lately?—I have, respecting the case of the chair of chemistry, but I am not so well acquainted with others as with it. I am aware that a recent regulation concerning the museum of the materia medica class gave rise also to some discussion.

Are you aware of the regulations lately adopted by the town council with regard to the right of property in class museums and class apparatus, and have these in your opinion been judicious?—I understand that they have abolished certain allowances for maintaining and making additions to the museums and apparatus, and at the same time wish to claim everything as their property which the professor introduces to illustrate his lectures. This is certainly very injudicious, because valuable apparatus, which the professor might wish to purchase for the purpose of illustrating his lectures, will not under such regulations be purchased at all.

Independently of an alleged vexatious interference between the town council and the Senatus, do you consider that the town council is of that rank and standing in society, and of that enlightenment, that the Senatus can be expected to go on harmoniously under its direction?—I should imagine not. Unable

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to form an independent opinion on academical affairs, they are liable to be misled by interested persons, and may thus urge the adoption of measures which the professors from their education and experience know to be prejudicial.

Are you of opinion that the Senatus itself would be the proper controlling power of these internal regulations?—I do not think so. Private interests interfere too much. In the institution with which I am connected, we have made it a rule in our senate not to have any discussion on what concerns fees.

You were at one time in your University a good deal interfered with by the proprietors?—Very much by the council. The council of the University to which I belong is of a much higher class than the town council of Edinburgh; but yet it was found not to work well in legislating for the University. They were as much too high as the town council of Edinburgh are too low. They were engaged in political affairs, and did not attend to the University. The institution was then so ill managed, that it nearly went to ruin, and it became a question whether it should be shut or not. The proprietors felt that the mode of management was bad. They therefore established a senate, composed of the professors, and one member of council as president. They also formed a committee of management out of their own body, composed of five members; and these two bodies together now conduct the institution. The committee of five conduct the domestic affairs of the University under the council, to whom they report, and the report receives the sanction of the council. In all that refers to education, the senate is consulted. The committee of five approve or control, but ultimately questions may go to the council, which is, strictly speaking, the controlling body; but the committee of five, from knowing more of the matter, in general lead the council. They also recommend professors for election; and though the council may not adopt the recommendation of the committee, this scarcely, if ever, happens in practice. It rarely happens that a resolution of the committee of five is not adopted; in no case indeed, so far as I know, has it been otherwise.

We wish to turn your attention to the more difficult question, that of the patronage of the University, the right of appointing to vacant chairs. Does it appear to you that a body constituted like the town council is fit to discharge that duty?—Not advantageously, I think.

Are you aware of the mode in which it has been generally discharged?—Perfectly.

Are you acquainted with the mode in which the elections were set about,—the mode of canvassing?—Yes.

Do the candidates rest their pretensions to vacant chairs entirely on their own scientific or literary acquirements?—I have known candidates, from local influence, to acquire a degree of support out of all proportion to their rank in the scientific world.

Is it possible that the members of the town council can of themselves judge of the acquirements in science and literature necessary for the different chairs?—Their situation in life precludes them from being well acquainted with the qualifications of individuals at a distance.

You are aware of the mode in which candidates set forth their pretensions to a vacant chair, by producing testimonials?—Yes. Testimonials are very fallacious tests of merit, unless the judges are well acquainted with the character and rank of those who grant them.

Are you aware that influence is brought to bear, or used to be brought to bear, upon the electors?—I have understood so. The support obtained by individuals scarcely known out of Edinburgh gives a strong colour to the rumour.

I think you point at the nearness of success of certain candidates, rather than their actual success?—Precisely so. Persons who in the scientific world have little or no reputation, have, from local circumstances, considerable chance. The system of canvassing is very unpleasant. There ought to be no necessity for candidates waiting on the electors, or making any personal application to them at all. It is rather the duty of electors to select fit individuals and to judge of their qualifications, both to invite them, and, when they invite them, to judge of their qualifications, without the necessity of a canvass. It is desirable that electors should have an opportunity of seeing the persons who wish to be elected, because the applicant may have some defect; for instance, he might have such a physiognomy as to render the management of his class impracticable.

Is your opinion of the unfitness of the town council, both for the internal regulation of the College, and the management of the patronage, pretty generally entertained by men not in Edinburgh?—With those who understand the subject, I believe it is; but I do not think that, in general, it is well understood.

Are you acquainted with the composition of the present town council? We are not aware that the class from which the town councillors are taken is materially different from what it was formerly, but there is this striking change, that formerly there was one medical man in the council, *ex officio*, the president of the College of Surgeons, but we have now a possibility of having a good many medical men in the council. Now supposing what is possible, that medical men altogether unconnected with the college, and perhaps connected with private lecturers, should become members of the town council; and suppose, further, that they become members of it with the expressed intention of taking an interest in the management of the College, and that they are, moreover, men whose opinion would be taken in college matters by their more ignorant brethren in the council; is such a change likely to be beneficial?—Ruinous, I should say. It is unfortunate that the patronage should reside in any medical men whatever, because they are necessarily connected with some of their brethren more than others. The danger is rendered much greater if medical men connected with private lecturers gain admission to the town council. Intrigues would arise for the advancement of private interests, and the general good would be lost sight of. These remarks apply especially to the University of Edinburgh, as its prosperity is essentially connected with that of its medical school.

Is the medical fraternity liable to pretty strong party feelings?—Assuredly; and more so than any other body that I know of. Independently of personal and unworthy motives, men who are representatives of one party in medicine, must be prejudiced in favour of their own party. This especially applies to medical men. I have always found party feeling to operate where medical men have to legislate in such matters, not merely here, but elsewhere. They have always their favourites.

We need hardly ask you, then, whether you consider, on the whole, that the patronage of the University of Edinburgh, and its internal management, are as well conducted as they are capable of?—Certainly not.

We should wish you to suggest some plan by which both management and patronage might be vested in safer hands?—It might be done by constituting a body for that purpose, not a large body, but a body of persons sufficiently high in station, and of good education, who mix much in society, and are likely to know the men who are estimated by society at large as men of talent, and of high

acquirements in science and literature. A small body, so constituted, might well have the appointment of professors, and the management of the University. The managing body should habitually, on all important occasions, consult with the professors, who, from their occupation, are the best judges of what is really beneficial for the University.

Would there be much danger of a set of highly-educated men, and men of a certain rank in society, interfering vexatiously, or improperly controlling the professors?—Not so likely as men who are less high in rank. The only risk is their having more important affairs to look after, which might cause them to neglect those duties; and on this account I would have a small body of patrons, so that the responsibility should be more deeply felt by them. At first, in the London University, the patrons had a great deal of duty to perform, as the institution was a new one; but here they would not have so much.

Have you thought at all into what hands it might be safe to place the appointment of members of such a body?—I would place it in the hands of intelligent persons, delegates from the leading bodies of the town, and who are interested in the prosperity of the University, such as the faculty of advocates, the town council, the college of physicians, and the college of surgeons; not that they should put in members of their own body, or medical men, but they might be well entrusted with the appointment of such members or directors. I would also give the professors themselves the appointment of one of the members. I think, in short, that the appointment might be in the hands of delegates from the leading bodies connected with Edinburgh.

Do you think that the appointment should be of a permanent kind, or change frequently; we speak of the board of patrons?—It would be desirable to have the power of change, because if they did their duty well it would be easy to reappoint them. They should not be so frequently changed as to make a nomination necessary for any express purpose.

Supposing that there was a vacancy in the University, such a chair as you might be inclined to offer yourself for as a candidate, would you prefer submitting your claim to a body constituted as you describe, to the body which now exercises the patronage?—Undoubtedly.

Do you believe the same feelings to exist in persons not locally connected with Edinburgh?—It is impossible that it should be otherwise. No degrading canvass could go on among a body constituted as I have described it.

Do you conceive that a scientific stranger would not have the same success with the town council as an inferior person resident in Edinburgh?—I conceive that a person resident in Edinburgh, of no reputation, may, by a canvass, beat a stranger of far higher claims. There are very few instances of persons not resident in Edinburgh being appointed to medical chairs.

Have complaints of this nature been made by scientific persons belonging to other countries?—I have known a case where, upon a fair footing, an individual having high claims would certainly have come forward to offer himself as a candidate for a chair, but was deterred by the consciousness that he was out of the way, and could not, from that circumstance, compete with those on the spot. A person who is out of the way for three or four days at such a time has no chance whatever.

Do you think it necessary to combine in one body the managing power and the appointing power —to combine the patronage with the management?—I see no advantage in separating them. If you had a body qualified to exercise the patronage, I do not see why it should not be qualified to make any changes that might be required.

Are you of opinion that the only safety for the character and interests of the University is to divest the town council altogether of its present patronage and powers of management?—I think it is essentially necessary. The period has arrived at which, if you were to make one bad election, of which there is I think much risk, it would be a serious injury to the University of Edinburgh, as there are now so many rival institutions rising up in the country.

To what do you attribute, under such a system as that which we have been discussing, the prosperity of our University?—Its prosperity has sprung from different causes, which have contributed to raise the Edinburgh University to the pitch which it has attained. There was here formerly some men of unusual talent,—the Munros, Cullen, Black, the Gregorys,—a constellation of high talent at one time, out of all comparison greater than that possessed by any other University. Then the late war brought forward a great many individuals to the medical profession; and at the same time in the whole of England there was no body entitled to give degrees excepting Oxford and Cambridge, where no complete medical education was given. Till within these few years, also, there was no complete system of medical education in London, it being almost entirely confined to anatomy and surgery.

Are these circumstances considerably altered now?—Very much so. Edinburgh has need of great exertions to keep its own place among the rival schools that are getting up. We have now in London the King's College and the London University, where complete medical and academic instruction is given. The plan of instruction at the London hospitals is also much better than formerly.

Is there not a proposal that some of these institutions should have the power of conferring degrees? —There is; and it is the unanimous opinion, I may say, of medical men in London that they should have that power. All are of opinion that some board should be established for granting degrees in London; and I fully expect that next year will see this accomplished, in which case English students will have a very strong inducement to study and graduate in London.

Will not the character of having studied at a school where excellent education is given be received in other parts of the world as a sufficient qualification, even if the power of granting degrees is withheld?—I think so; especially as the distinction between physicians and surgeons is rapidly diminishing.

Do you conceive that the same system, which may have worked very well in the state of monopoly, and from the great advantage that Edinburgh enjoyed, may now be found wanting?—Perfectly so. I think if two or three bad appointments are made to vacant chairs in the College of Edinburgh, it would become a second-rate school; it would become inferior to London the moment the power of giving degrees was possessed in the metropolis.

Do you look on one of those appointments to be the chemistry chair?—Certainly I do. Anatomy and chemistry are the two most important chairs to have well filled in the University.

Do you conceive, from what you have stated, that there is at least great danger and risk that the chemistry chair will be placed in such a position that even, with the best intentions, the town council will not get the best person?—There is great risk. The necessity of a personal canvass against intriguing persons of local influence, but of little reputation, is sufficient to deter men of eminence from becoming candidates for a chair.

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Examination of Dr. P. Mark Roget. (10th Sept. 1834.)
No. XXIV.

No. XXIV.—*Dr. Peter Mark Roget, Secretary of the Royal Society of London, examined.*

Are you acquainted with the constitution and management of our University?—Not otherwise than has been stated in the paper delivered to me.

You are aware, from that information, that the University is wholly under the patronage and management of the town council of Edinburgh?—So I understand.

You are aware generally also of the class of persons of which the town council consists?—I understand that it is composed in a great measure of shopkeepers and tradesmen.

Does it appear to you that persons of that rank of life and general intelligence are the proper persons, or at all qualified to manage the interests of such an institution?—My opinion is that they are by no means so qualified; they are perhaps the least qualified of any class of persons.

You are aware that part of the duties of managers is to fix the *curricula* for degrees, and the different courses of education applicable to the different learned professions. Are these duties particularly alien to the pursuits of such a class of men?—I should think quite so. Their interfering in matters of that kind cannot fail to be prejudicial to the interests of the University and the objects of education.

With regard to the matter of management, do you think they would be benefited by an intermixture of men of a sort of rival faction in science, especially of medical science, of whom there is now a sprinkling in the town council?—If the town council are to continue the patrons of the University, it certainly is very desirable that some portion at least of that council should be composed of men of science, and of medical men in particular.

You are aware that in a city like this we have factions in science—we have lecturers in opposition to the college; does it appear to you that it may be prejudicial to the interest of the college to have the management thrown in any degree into the hands of such persons?—There appears a difficulty in that respect. Any influence of persons lecturing for their private advantage must tend to interfere with the proper functions of directors of the University.

We are informed, on evidence which we are bound to believe, that there is a great deal of personal canvassing when a vacancy takes place. Is that very dangerous in your opinion, considering the rank and standing of the patrons?—I should think such personal canvassing would be highly prejudicial to the judicious choice of proper professors.

Do you think it may so happen that persons may acquire a considerable reputation in the limited circle of Edinburgh society without having or deserving such in a wider field?—That I should think very possible; and at the same time the information of the existing patrons may not extend much beyond Edinburgh society. There is something degrading to a man of high qualifications in science and literature to undergo the ceremony of a canvass among that class of people, so much so that few persons of high feelings would stoop to those arts which would be most successful in such a canvass.

Has it ever occurred to you what might be desirable to substitute for a system of University patronage which is found defective?—I have not turned my attention to that subject, which is certainly a difficult one. As far as my experience goes, the selection is best made by a limited number of electors, and in proportion as these electors are men of education, and acquainted with science and literature in general, the greater chance there is of the best selections being made. A large body of electors are not likely to make so good a selection as a small body.

Do you think it is desirable, for the sake of avoiding some of the evils of canvassing, which may be in a secondary degree experienced in canvassing for the election of electors—is it not desirable, for the sake of avoiding that evil, to have the patrons permanently in office, or at least that the office should have considerable endurance?—I should think so. It would be better to have the electors a permanent body, for the reasons you have stated in the question.

Are you at all acquainted with the mode of patronage which has almost become the constitution of the Universities in Holland and Belgium?—I am not at all acquainted with it.

Does it appear to you that a man of desirable qualifications might be deterred from accepting office in the University of Edinburgh from the state of its patronage and management?—It appears to me that such a person would be deterred from canvassing to obtain the situation; and that if he did succeed he would find it very irksome to submit to that kind of control which appears to be exercised in the present case; so much so that I think I should be disposed to relinquish an office which I held under these conditions. I may add that in my own limited experience I have found inconvenience to arise from being associated with another lecturer on the same subject. This has happened to me on several occasions; and I am satisfied that a greater degree of restraint in the mode of conducting lectures would be still more irksome, and might become intolerable.

Have you attended to the question which is just now agitating the professors of this University with regard to the splitting down the lectureship of chemistry into two divisions?—I was not aware that any such measure was in agitation.

The proposal is to make two classes: one to be called the chair of practical chemistry, and to consist, I believe, of the mere manipulating part of the duty; the other the more theoretic part?—I should think that such an arrangement would in many respects be very objectionable. One source of inconvenience would arise from the rivalry which would take place between the two persons teaching the same subject; each would wish to secure to himself the most interesting department of the science. If one had the sole control of the whole, the students would in general reap greater advantages.

Is it possible to fix the limits very accurately, even with men drawing well and friendly together, between subjects of practical and theoretical chemistry?—It would, I think, be extremely difficult.

Are you of opinion that the professors are unfit, as a body, to discharge the office of managers and directors of the management of the college; I mean with regard to the marking out of the education for students, and the necessary attendance for degrees, apart from the private management of the classes?—I should think they would be very well qualified for such a function, and perhaps even better than any other set of men.

Do you conceive that from choosing the patrons from a higher class of men, and also making them permanent in office, there would be a probability of avoiding the disputes that exist betwixt the professors and the present patrons?—I should think there would. The present system appears to me very objectionable, and almost any change would be an improvement.

No. XXV.—*Dr. Thomas Thomson, Professor of Chemistry in the University of Glasgow, examined.*

Have you been long acquainted with the management and patronage, and the mode in which they have been exercised, of the University of Edinburgh?—Yes, since the year 1791.

Do you consider, that during that long acquaintance with the subject, the town council have always exercised the trust to the greatest possible advantage of the University?—Their intention is good, but I think they have been sometimes mistaken in the patronage they bestowed.

Do you think, *a priori*, that they are a class likely to administer the patronage well?—Originally they may have been, but they have deteriorated. They are not now very well qualified to judge. When the college was instituted the magistrates were a different set of men altogether. They are now a class of men peculiarly liable and accessible to solicitation. Every candidate for a vacant chair is in the habit of canvassing and soliciting every individual elector by himself and friends; and I believe that it is not possible that they should not be influenced by that very much.

Does it strike you that the patrons ought rather to seek for candidates than that candidates should be allowed to solicit the patrons?—They should fix on some one whose character is already established.

Is the class from which the magistrates of Edinburgh are taken likely to be acquainted with the merits of distant and rising candidates?—I should think not. There is that evil in the system which has been established that would certainly deter me from offering myself as a candidate for a vacant chair. I would not choose to run the gauntlet of a canvass, as well from the unpleasantness of the mode of success as from the chance of failure.

Do you think that the magistrates are better qualified for managing the internal regulations of the college than for administering its patronage?—I should think the one is as much liable to abuse as the other. The magistrates have too much power over the internal management of the college, and they cannot be judges of how these things ought to be conducted.

Do you think them qualified to fix the proper *curriculum* for degrees; they are entitled at present to point out the books that are to be read in every class by the students?—I do not think they are qualified for this. Of late their interference in these matters has not been judicious.

Do you attribute that interference solely to ignorance and want of judgment, or do you conceive that there may be some persons who may have improper motives in advising such interference?—I believe they were prompted by several individuals who could be pointed out in their late interferences. I would not, however, choose to point them out, but they are well known.

You think that these individuals behind the scenes were not altogether acting from mere ignorance?—No, but from interested motives, I believe.

Are you acquainted with the discussion that has existed lately with regard to the management and property of class museums?—I have not paid attention to the discussion.

Have you attended to the discussion with regard to the professorship of chemistry here?—I have; I think the town council have acted in this matter immorally. I cannot conceive anything worse than their conduct in this respect. It is an avowed attempt to ruin the present class.

Have you heard that there was mixed up with the discussion of this matter, as a question of principle, a personal solicitation for a candidate for the supposed vacancy?—I know there was a candidate fixed upon; I heard this from the candidate himself; but I have no personal knowledge of a canvass. With regard to the impropriety of putting in another professor to teach the same thing that is now taught, I do not think that two opinions can be entertained by unprejudiced persons. Nothing, in fact, can be more absurd. If they were to endow the present professor with a proper emolument they might do what they pleased; but otherwise such a proceeding would destroy his class. The present professor is independent, but his successor may not be so; and to appoint an additional professor would ruin the class for ever. If you once injure a class, it will not easily be recovered again.

Do you consider that that class is one of the most important for the welfare of the University?—Perhaps the most important in the college, and it has always hitherto been considered an object of ambition for the best-qualified man. It was considered as the best situation in Britain for a chemist. I fear it will not be so now.

Do you hold that the interests of the University may be materially injured by tampering with this class?—They certainly will. If you destroy that class, you give a blow to the University, from the effects of which it will not recover; and splitting it down is destroying it.

Have you ever turned your attention to the cause of the prosperity of the Edinburgh University in connexion with its patronage?—I attribute the cause of its prosperity to one individual provost pitching on proper professors, I mean Provost Drummond. He it was who made the University, by pitching upon a whole set of men that were celebrated all over Europe for their talents and learning, Principal Robertson, Dr. Cullen, Dr. Black, Dr. White. I think he appointed all these medical professors. He also appointed Dr. Gregory, senior, and Dr. Munro, secundus. These appointments gave the University its celebrity. I consider that the character which the Edinburgh University has preserved has at least been independent of the influence and patronage and management of the town council. The magistrates seem to have taken it for granted, that such was the reputation of the University, (gained to it by this one man, who was a good judge,) they might put any body into the chairs afterwards; but this will not do.

Do you conceive that at the present time, in particular, the college must be managed with more care than hitherto to enable it to keep its ground?—It is losing ground very obviously, while rival institutions are making fast up. When I began to teach chemistry in the College of Glasgow, the class here was five times more numerous than mine; but last year the difference between the two classes was just 25; and the reason of this is, that the one college is falling, while the other is constantly increasing.

Do you consider that from the rising of the medical schools of Glasgow and of London, and other provincial medical schools in England, it would be necessary now, if Edinburgh is to support its character in any degree, to choose a very different set of lecturers from those whom the town council has been in the habit occasionally of putting in?—I am quite sure of that. Unless they choose men of celebrity all over the world, the college of Edinburgh will fall to nothing. When I was a student here, every one of the medical professors was known all over the Continent, and now there is hardly one of them in this predicament.

Is it not the fact that all our professors are Edinburgh men?—They are all connected with Edinburgh except Dr. Trail; and I think his appointment is from the Crown. There are very few of them, in fact, that are not the sons of professors.

Do you think that this hereditary holding of office is beneficial?—It has done very well in one or two

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instances, but generally speaking it will not do. It did very well with Dr. Munro, senior and secundus, and very well with Dr. Christison, but not so well with others.

Have you sometimes known the sons or relations of professors appointed assistants during the life of the professor?—I have known several instances of this. It is a very bad system, but it is difficult to avoid it, because there are no retiring salaries; and a professor, when incapable of teaching, must starve or get an assistant, if he has no other means of subsistence. We have a professor in Glasgow working for nothing, because the professor who preceded him has carried away all the emoluments. There should be some means to allow professors to retire after a certain age, as judges can do; and unless this be the case, you cannot avoid having assistants and successors, and this is ruinous to an University. It completely precludes the most desirable men, because they will not submit to be assistants.

Have you ever turned your attention to the substituting of any system of patronage and management for that which exists at present in this University?—I have thought a great deal upon the subject. I at one time thought the Crown would be a good patron; but I changed my mind, from some appointments that took place in Glasgow. I am not in favour of the professors being patrons,—they, I think, would be the worst of all. It is a difficult thing to fix upon good patrons. Get good patrons, and you will always have a good University.

Have you thought of any elements that should go into a board of good patrons?—They ought to be good judges, and perfectly honest, and quite unconnected with parties and candidates; and consequently they must not be professional men. You must choose them at a distance from the place.

Does it not appear to you that the patrons acting for the interests of the University will not merely weigh the pretensions of candidates who put themselves forward in the place of the University, but will extend their views to other places, and choose the best men?—They ought to do so. A man properly qualified will hardly submit to a canvass. The patrons ought, in fact to seek out fit persons.

Can you not conceive one or more patrons so elevated in respectability and standing, that it should never occur to any man to think of canvassing them?—I can conceive such men; but you may not have a succession of such men as patrons.

Is a rapid change of patrons necessary?—No; but supposing you were appointing three or four unexceptionable patrons, they will not live for ever. The difficulty is to find a succession of them.

Suppose a board were to be constituted, the members of which should be nominated for a permanency, one by the town council, as being the old patrons, they, of course, not being allowed to nominate a member of their own body,—one by the professors, they also excluded from nominating one of their own body,—one by the students,—and one by the Crown?—This would be a very plausible way of doing it, certainly; but I cannot say whether it would answer.

Have you any objection that the students should have the nomination of one?—If they are to nominate one in four, it would not be injurious. I think the students in general very good judges, provided the boys attending the Latin and Greek classes for the first year were excluded.

Would not the younger follow the older students?—We do not find this to be the case in Glasgow college. The election of the lord rector is always carried by the boys of the first year.

Do you find those chosen by them good rectors?—Very good men, but not always good rectors. If they choose a man that lives in London, for instance, he can be of no use in the world. His business is to superintend the expenditure of the college, and his office is therefore a very important one.

Do you conceive that if such a system had fair play, and was reasonably successful in the appointment of well-qualified men, that the management of the University, so far as it is not properly placed in the hands of the professors, might be trusted in such a body, as well as its patronage?—If they were to choose merely a patron, I cannot see any inducement they have to go wrong. What makes professors so very bad patrons is, that they are divided into parties, and every party wishes a man of his own side, which precludes completely the choice of the best man.

Do you consider that when the present pressure of party feeling is taken off, that the danger of the appointment of professors to vacant chairs in the hands of the Crown would be less than otherwise it might be?—Yes; there would be a struggle between the Whigs and Tories just now. I take my views from the College of Glasgow. I see a struggle between parties in every case. A professor should be of no party.

Is there any thing else that you, who have thought so much on the subject, would suggest?—I could not venture to suggest any thing. I think the subject a very difficult one; but at the same time it is absolutely necessary to do something, or the college will go to ruin.

You consider that the risk of a change is to be run in such a case?—I think so.

No. XXVI.—*The Reverend William Whewell, Fellow and Tutor of Trinity College, Cambridge, examined.*

Examination of the Rev. Wm. Whewell. (10th Sept. 1834.)

No. XXVI.

Have you been for some time a member of Trinity College?—I have, for 23 years, I think.

Have you turned your attention to the management, and amongst other things to the patronage of Universities?—I have been for 15 years a fellow of Trinity College, and in that way one of the governing persons of the *college*. I have been for nearly the same period Master of Arts, and thus concerned in the government of the *University*. I have also been actively engaged in the tuition of the college, first as a lecturer, and afterwards a tutor, and consequently I have been one of the persons upon whom much of the particular management of the college falls, and forced to form opinions as to the way in which the college is managed.

Have you had occasion since coming here to form any opinion in regard to the management and patronage of our University?—I have heard no discussions, but I have heard expressions of opinion with regard to its present management, and have been led in that way to form some opinions with regard to the manner in which it is at present conducted.

Are you acquainted with the body that exercises the right of the patronage of the University?—I am told that it is exercised by the town council, and that they generally consist of tradesmen and shopkeepers.

Are you aware that they consist of 33 in number?—I was not aware of that.

And that they are a fluctuating body, and go out annually by rotation?—I am so informed.

Should you conceive, *a priori*, that such a body was well qualified to administer such a duty as the patronage of an University?—I should conceive that the administration of the duty of the patronage of an University by such a body must very much tend to degrade the character of the teachers.

Do you conceive that it has that influence in more ways than in selecting unfit persons, inasmuch as it may deter better qualified persons from coming forward as candidates for a vacant chair, and subject those that do come forward to a degrading canvass?—Yes, in all these ways. The patrons being persons whose suffrages are to be gained by what men of high feelings would not choose to have recourse to, I am of opinion that many of the most eligible persons under such circumstances would not offer themselves.

Do you conceive that the number of which the council consists is in itself a serious evil?—I should conceive that such a number of persons, miscellaneously collected, could have little feeling of responsibility. It may perhaps impede that unity which is necessary for prospective measures; for instance, for fixing at once upon the person who is pre-eminently the most desirable, without submitting the matter to a canvass, or any solicitations whatever. Such a body would, I suppose, be unlikely to act in this manner, but I am not sufficiently familiar with the proceedings of such a body to make my opinion of any importance.

You conceive that the patronage being vested in such hands might occasionally prevent a person from coming forward who might be an honour to the University?—Yes, in the majority of cases. Those persons who are eminent in science and letters, and in the power of communicating knowledge, would feel a great repugnance to engage in a contest where they are to seek for the suffrages of such a body of persons.

Is it possible, even if a very highly qualified and distinguished person were to offer himself as a candidate for a vacant chair in Edinburgh, that he might be unsuccessful in his competition with a person of less extensive character, who happened to be generally acquainted in Edinburgh?—It appears to me extremely likely that local connexion will prevail under such a system over merit; and I should consider that merit of the highest kind is not known publicly till a considerable time has elapsed, during which it has been in action.

Does it appear that such a body of patrons can be acquainted with men just coming into notice as first-rate scientific or literary characters?—I should conceive it impossible that they should be able to appreciate such persons, or even know at all of their existence.

Are you prepared to state that such a body as the town council of Edinburgh is better qualified for controlling the common ordinary management, such as the plan of study, the requisite qualification for degrees, and the other internal management of the University, than for administering its patronage?—I should consider it a material and fatal evil for the University tuition and management, that they should be in the hands of such a body.

Then it is not likely to take the proper view of the necessary studies, and suit the line of study to the rising wants and necessities of the University?—It is absurd to suppose that it could judge well on this subject.

Are you of opinion that it would be dangerous to trust in such hands the power of creating and subdividing professorships?—I should think that such a power in their hands would be attended with scarcely any but evil consequences.

Have you turned your attention to the suggestion of any other system of patronage which might be safer and more expedient for such an University as this?—Not so as to form a decided opinion, but, speaking generally, I should say that a small body of well-educated and enlightened persons, distinct from the teachers and professors themselves, appears to me to be the best kind of body in which the patronage of the University can reside.

Do you think that such a body will possess greater consistency of action, and be more serviceable altogether, by being of a permanent nature?—I should conceive so, without pretending to have formed any very distinct opinion as to the precise constitution of such a body. I have no particular body in my eye, but I speak rather in order to avoid recommending the leaving of the patronage in the hands of the professors themselves, which, so far as my own observation has gone, I should by no means think the best arrangement, though I should expect it to be better than the one which has been described by you; and also for the sake of avoiding to recommend any arrangement which would place the patronage in any quarter where it might be affected by extraneous motives, such as, for example, political ones.

Do you anticipate any difficulty or objection to the same body discharging the duty of patrons, and carrying on the general superintendence of the management and internal regulations of the college?—I see no difficulty in persons exercising the office of patrons, and also the *general* superintendence of the affairs of the college, but I conceive that the details of the management of the college are best left in the hands of the teachers or professors themselves, or in the hands of a body consisting of them, and that the regulating body ought to be of such a nature that the professors can, without inconvenience or degradation, bring forward their views on the best regulations of the college in a manner likely to engage attention and respect.

Do you conceive that the professors would be benefited, and the interests of the University consulted, by removing from their hands the determining about fees payable to themselves?—If these matters were regulated by a body easily accessible to the representation of the professors it would, I think, be better.

You do not consider that it is desirable that a body exercising the management of the college should proceed to legislate for that purpose, without taking the Senatus Academicus into their councils at all?—I should conceive it extremely prejudicial to the interests of a college.

Do you consider that it is more so to refuse to listen to any statement or remonstrance by the professors, and to decline all communication whatever with them in deciding on matters in which they are personally and deeply interested?—I should conceive that to be a course of proceeding ruinous to the University and degrading to the professors.

You would not anticipate such conduct from a body like that to which you have alluded, consisting of men of high education and enlightenment?—I could not anticipate such conduct.

Being fully aware of the danger of change in all long-constituted bodies, do you conceive that the evil, as stated to you, is so great in the University of Edinburgh as to require imperatively some reform or change?—I should conceive that the practical exercise of such powers by such a body as has been spoken of must be perpetually producing a progressive change, which would be very much worse than any change connected with the improvement of such a constitution could be.

Is it possible that a very radical change of the constitution of a University like this could be managed without producing anything like revolutionary or convulsive effect upon the common operation of the system, the present professors remaining the same during life?—I should conceive that any

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alteration in the mode of appointing professors would in no way disturb the relation between them and their students, and that any alteration of the management which strengthens the hands of the professors would also be free from all chance of producing disturbance.

Do you consider that the University of Edinburgh bears as high a character now as it did during the last part of the last century, in regard to the men of science of which it consisted?—I do not think there are so many men of scientific and academic eminence now as there were some years back, but the appearance of persons of great talents occurs so irregularly, that I should not without much consideration and examination venture to refer this difference to any external circumstances.

Do you consider that there has been a deficiency of talent during the later years in Britain, to supply the interests of such a University as this?—Such deficiency has not appeared in any way in any of the English Universities, according to my view of them.

Have there not been, at the same time that we have been contented with middling men, men of the highest qualifications in many places of England who were ready to take the situations of professorships in Edinburgh if tendered to them?—I do not believe that I have the means of judging very correctly of this circumstance. There have been, in various of the institutions for education in England, men of very great talent in general, who were determined in their choice of the institutions to which they attached themselves by the advantages which these institutions offered.

What I wish to have your opinion upon is, whether it is not matter of notoriety among men of science in England, that we could have had better men (without slight to a great many talented persons in the University) on the whole than we have had, if we had broke through the connexion with Edinburgh?—That is a question I can hardly answer without forming a judgment on the merits of particular persons here, as compared with persons whom it may have been supposed possible to put in their places, and this is a comparison so difficult and invidious, that I should hardly venture to make it.

You think that the present system of patronage, which requires a personal canvass, and the system of management, are such as would deter many well-qualified men from coming forward?—Many of those best qualified to discharge the duties of professors would be deterred in my opinion from coming forward as candidates.

No. XXVII.—*The Rev. Adam Sedgwick, Woodwardian Professor and Fellow of Trinity College, Cambridge, examined.*

Examination of Professor Sedgwick. (11th Sept. 1834.)

No. XXVII.

How long have you been connected with Trinity College?—I entered there in the year 1804, and have resided in Cambridge and been connected with the University ever since.

Have you had your attention called to the general subject of University patronage?—My attention has been frequently called to the subject in connexion with the election of professors at Cambridge.

Have you had any opportunity of hearing, or of knowing at all the system of patronage in the University of Edinburgh?—I have heard rumours respecting it; but never heard any particulars, or made it a subject of special inquiry.

It may be necessary then to state shortly, that the election of professors is in the hands of a body called the town council, consisting of 33 individuals chosen for municipal purposes, chiefly out of the class of shopkeepers and tradesmen, of a fluctuating nature, going out annually by rotation. They have not only the election of professors, but in their hands is the legal right of superintending the whole management of the college; of prescribing the course of education; the *curricula* for degrees; fixing the amount of fees payable in classes; regulating the museums, the library, and, in general, the whole arrangements and details in the economy of the college; would you say, *a priori*, that such a body was well qualified for these duties?—Speaking *a priori*, I should say that it is the worst possible devised system of patronage; but in regard to its mode of application, that must depend on local circumstances unknown to me, and consequently I can offer no opinion on the question. It seems to be one which puts the candidate for a new office in a humiliating position. The powers vested in the town council appear to me also to be incompatible with that independent exercise of professional talent which I conceive of vital importance in a public body, and on both of these grounds I conceive it to be a very bad constitution. Again, the electors appear, from the statement I have just heard, to be persons not qualified to judge, and in many instances they may be led through mere ignorance, and without any sinister intention, to choose a candidate who is unfit for the office he wishes to fill. I wish to state generally, in regard to the mode in which the elective franchise is exercised by academic bodies, that it depends so much on the force of opinion established by the reputation of previous professors, and on a number of concomitant circumstances, that I have known cases (even where the academic constitution was apparently bad) of a result so happy, that perhaps no other constitution could have produced a happier; and it is perhaps inexpedient to alter a mode of election except there be a special grievance.

If you were told that the occurrence of a vacancy here is attended by an immediate keen canvass by the candidates, and a personal solicitation of the voters, the voters being in such a class as not to prevent the application of various kinds of influence, should that in itself form such a special grievance as to bring the case within your view?—I should think it an evil so great, that I can hardly conceive it possible that it should not produce special grievances of the kind I was considering, and results detrimental to the best interests of the University. But I have had no experience of any case of the like kind. The elections of which I spoke were in Cambridge. I have been openly opposed to certain practices in that University, and have wished the elections to be, in some instances, of a more popular nature. No man there has a vote except he has the academic rank of A.M., and, in that case, the elections can hardly be too popular in their form, for the opinion of the majority would probably be the best general test of the respective merits of the candidates.

Should you conceive it possible, if, to give a candidate a chance of success, he must, in person, and by the aid of his friends, make all imaginable efforts with every elector of such a body, that it will prevent men of the highest qualifications from coming forward as candidates?—It may be possible; and I cannot see how a man of high qualifications and delicate sentiments could go through such an ordeal without feeling himself degraded.

Should you apprehend that the power of interference, by such a body, with the management and regulation of a University, might have the effect of deranging its affairs, and also of preventing men of high qualifications from choosing to become members?—I think it possible, no doubt; but I can give no opinion with regard to Edinburgh.

You could imagine, under the old system of corporations, that, although the patronage was in the hands of 33, there might be one mind behind, moving them, qualified to judge?—Not improbable, perhaps; but I consider the probability of such a fact has now very much lessened, in consequence of recent changes in the constitution of the corporate body.

Have you ever formed in your mind any plan for a more perfect system of college patronage?—Never. I have never formed any Utopian scheme of that kind; my attention has been merely called to particular cases. I should be adverse, however, to the formation of any such general plan of patronage. Academic bodies differ so much in their organization, that it is hardly possible to form a plan of election that would be applicable in all cases.

Does it seems to you that our University holds its rank fairly now, in comparison to what it once was?—That is a difficult question to answer. A man often imposes upon himself by giving credit to those who are gone, for greater powers than they really possessed. I think it is in human nature to believe the present worse than the past; I believe, nevertheless, that the present condition of this University is not so glorious as it was some years back; but then we must bear in mind, that very distinguished men only appear occasionally, and throw into the shade a number of admirable teachers, who, without having a great historical reputation, may still produce a powerful influence on those who attend their lessons.

Are there circumstances, either occurring, or likely to occur, which may give Edinburgh an arduous battle to fight, in order to keep its place among the Universities in Britain. I allude to the granting of degrees elsewhere?—I think not only that Edinburgh, but that all the old Universities, have a battle to fight; and it behoves them all to make such reforms as may give full and entire efficiency to the mechanical part of their system. It will not do any longer to rest on by-gone reputation.

Do you conceive that any amendment of the mode of patronage here, and reformation in the management of the college, may materially add to its character and usefulness?—Unquestionably. If the mode of patronage be faulty, as you have stated it to be, it requires reformation. The question, I conceive, answers itself. I should think that the town council, as at present constituted, is more likely to make bad elections than under the former constitution, because I consider that men, acting on a long-established and liberal usage, would probably consider themselves more bound to defer to public opinion, and to look to the permanent interests of the University, than a set of men new in office, not eminently qualified as electors, with no long-established rule of liberal conduct, and having little connexion with the past honour of the University. I beg to add, that I was taken by surprise in coming here; that I did not come as a voluntary witness, but conceiving myself bound to answer such questions as were proposed to me; and that every answer is to be considered as entirely of a general nature, without reference to any individual case whatever, and without any pretended knowledge of the internal administration of the University of Edinburgh.

No. XXVIII.—*John Yelloly, M.D., F.R.S., Woodton Hall, Norfolk, formerly Physician to the London Hospital, examined.*

Examination of Dr. John Yelloly. (11th Sept. 1834.)

No. XXVIII.

I understand that you have turned your attention to subjects connected with University regulations—the granting of degrees, and the various modes in which patronage is administered in the great literary and medical establishments of London?—I have only attended to such subjects as matters of general interest; for there are few physicians in England, but particularly in London, who do not direct their attention more or less to subjects of this kind; but it depends on circumstances whether such subjects present themselves as matters of particular inquiry.

Are you acquainted with the constitution and patronage of the University of Edinburgh?—I have understood that the patronage resides in the town council.

You are aware of the number of our town council?—I understand it to be from 30 to 40.

Do you know the class of society of which its members are generally composed?—I have understood that some of the heads of the town council are men of property and interest in the city, but that the greater number are tradesmen, not of the highest grade in the city.

You have been acquainted with several discussions with regard to the appointment of professors here?—Having had a considerable part of my general as well as professional education in Edinburgh, I have at all times taken a great interest in her concerns, and have generally heard of the principal discussions relative to appointments to professors' chairs in that University.

I should be glad to know your general opinion as to the patronage of the town council, how it has been exercised?—I should think the town council a very inefficient body for making such appointments. It would be difficult, as far as I am able to judge, to point out a body worse adapted, in theory, for doing justice to the University than the town council is. Where the responsibility is so much divided as it is with them, there must be, one would imagine, frequent operations of party feelings and attachments to particular interests, which must affect most materially the mode of filling up appointments. I should think that the chance of between 30 and 40 tradesmen of the city making a good appointment is much less than if the duty devolved upon four or five of that body, who might feel the high responsibility thus vested in them. I should therefore think that the mode of appointing professors is not a good one, and that it is liable to great objections, although often exercised well. The discrimination and judgment necessary for electing a professor seem to me much greater than are necessary, for example, in electing physicians and surgeons to hospitals, or to any other appointments where the candidate must possess certain specified qualifications. A vote may be given, without impropriety, on the ground of such pretensions. But the professor requires a singular combination of qualifications. For, besides a distinguished acquaintance with the subjects which he is to teach, and a character with the public for possessing it, he should have the faculty of communicating his knowledge, so as to make it available to others.

You have only alluded yet to the numbers of the town council, as an impediment to the proper discharge of such duties; will you give me your opinion as to their general rank in life, whether that is an impediment to the proper discharge of their duties as patrons?—They must be guided in a great measure by those with whom they communicate. A tradesman in Edinburgh is, I should think, however, better qualified to judge on such a point than a tradesman of similar grade in England, on this ground, that the lower classes are better educated here than they are in England, where, notwithstanding the laudable endeavours of individuals and societies, education is much less advanced than in Scotland, owing to the want of the regular parochial schools which Scotland universally possesses. The lower part of the middle classes of society, of whom many of the town council consists, have, I am therefore

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inclined to suppose, a better education and more information and acquirements than the same class in England. But even taking all this into account, it is not likely that the discrimination of such a body as the town council of Edinburgh is would at all times be such as to enable them to exercise the patronage judiciously; because, unless a man come to the consideration of the appointment of a professor with a firm conviction that a great deal depends upon the vote he gives, I do not think he can exercise that duty well. Neither does the position which the town council hold in society seem likely to give them the information which such an important duty requires, and if they get it at all, it must be through the medium of others. Supposing the duty of electing a professor to attach to one of the highest functionaries of the state, I should think there was no exercise of patronage connected with his duties which called for more discrimination and serious consideration than the appointment of professors. If that is the case with a minister of state, the same would apply to others; and I should think it very difficult for such a body as the town council of Edinburgh is to exercise well the duty of patrons to the University from their position in society, their habits, their information, and also their numbers, which very materially fritter away responsibility.

You have only spoken with regard to their duty as patrons; there are other duties, in the exercise of which they have a legal right; that is, to control the internal management of the college, to direct the studies, regulate the fees, and superintend the whole police and economy of the University; is such a body as the town council well qualified for such duties?—I should think not, and very much for the same reasons that would unfit them for the exercise of the patronage of appointment; only they would have the assistance of the body of professors, and would most likely be a good deal influenced by the opinions of those gentlemen.

Can you not conceive a case in which men new in office, and zealous to discharge the duties of that office, and yet to ride on the top of their commission, may interfere with things with which they are not acquainted, and show certain discourteous feelings towards the gentlemen who fill the chairs?—I can easily conceive such a case, and I have known instances in which men from over-zeal, or zeal improperly directed, or from a sort of busy feeling which some people possess, have interfered with official persons in a manner that was neither agreeable nor advantageous. The more confidence that is reposed in professors the better, for the honour and credit of a University depend on them, and therefore any arrangements which tend to encourage a man to busy himself in matters with which he is entirely unacquainted are dangerous, and ought to be got rid of. And then the habits of life of such persons would not be likely to give them that sort of gentlemanly feeling that would tell them when it was proper to interfere or not.

If you heard that a body like the town council had taken upon them to decide on breaking down a professorship into two lectureships on the same subject, and having remitted their decision for the consideration of the Senatus Academicus, and having had the unanimous opinion of that body against the measure—if you were to be told that they nevertheless carried that measure into effect, should you conceive that they were *prima facie* acting for the interests of the University?—I can hardly conceive any procedure more indelicate and reprehensible. It is setting at nought the opinions of gentlemen to whom they have entrusted the most important interests of the University, and unwisely diminishing their influence both with the public and the students.

To put another case; suppose the patrons of a learned institution like the College of Edinburgh were to take on themselves to grant new commissions, flowing from themselves, to officers who have formerly been placed under a head officer—I allude to the assistant librarians, formerly appointed and holding their commissions from the head librarian—that in doing so they did not consult the head officer—that on the Senatus Academicus requesting to be heard before they should come to a final decision, they refused to hear them—and that the Senatus presenting a remonstrance, they declined to receive it, without adverting at all to the propriety or impropriety of the measure, should you conceive that such a mode of carrying it, without hearing the Senatus, was of itself *prima facie* a proof that the patrons were unfit for discharging the office?—It is difficult to conceive that any men of good sense, and with a proper appreciation of their own heavy responsibility on the one hand, and of the respect due to the persons of their appointment on the other, would so act. And with regard to the librarian, he could hardly afterwards retain that influence over the assistant librarians which he ought to possess.

Do you conceive that the necessity of submitting to that system of canvassing which takes place on vacancies, and the fear of the control and interference which I have hinted at, might possibly deter highly-qualified men from offering themselves for the situation?—I am not sure that it would *deter* men, because they must take the usual mode of procuring an appointment which they are desirous of filling; but, certainly, if some other promising plan could be adopted, it would be desirable.

You have stated, I think, that you have been connected formerly with one of the great London hospitals; is there not a great deal of canvassing for the vacant offices in these institutions?—I had a very extensive canvass for the London Hospital, to which I was many years physician, and which consists of 1,400 or 1,500 governors, and I had previously a canvass for the General Dispensary, one of the largest institutions of the kind in the metropolis, with which I was connected for a considerable time before my election to the London Hospital; but with regard to the mode of appointing physicians and surgeons to such establishments, I believe it would be difficult to find a better plan than the present one, of allowing the candidates to canvass the governors at large, provided such candidates possess the proper qualifications. But it is very different with the appointment of a professor, and in giving a vote for the latter, a man should consider that he is exercising a duty, not conferring an obligation.

When you take into consideration that a canvass here is very different from one in London, inasmuch as a personal canvass is not only necessary in a candidate, but those interested in him must beat up their friends, and when he finds that the most influential friends and supporters are the persons who have dealings with the electors, may not such a degrading canvass deter men of high talent from offering themselves?—I do not apprehend this very much, unless they should be satisfied that their chance of success was hopeless. Take two men, one who is less known than the other, of more retired habits, and of more delicate feelings; perhaps if he found the other man an active person, with numerous political or private connexions in the place, he might decline standing from the hopelessness of the encounter.

Do you conceive it would be attended with danger or serious difficulty to admit a modification in our system of patronage?—I should think on the whole that the system of appointments here is so very anomalous, compared with that which usually takes place elsewhere, that it would be difficult to adopt any change that would be less favourable to the interests of the University, or less agreeable to public feeling.

You have pointed at the necessity of a board of patrons being small in number, with the view of concentrating their responsibility;—are there any other elements that, in your opinion, should go to the formation of such a board?—It is an exceedingly difficult matter to determine what would be the most expedient mode of election. Looking at professorships in English Universities, there are some given by the Crown, others by certain official persons, and others by the University at large; but, though always respectably filled, I do not know whether they are uniformly given with a precise view to the highest qualifications of the applicant. It would be a difficult matter to form a board of electors which should be of a description to merit entire confidence. I should be inclined to think, on the first view of the matter, that it would not be desirable to give the absolute appointment to any one particular body. Supposing you could have three or five men of high character and reputation, who would, as a matter of honour, look about for, and select such, individuals as would do credit to a University, it might be a very considerable improvement in the system of election. But instead of making the appointment by such persons absolute, it might be a consideration whether it would not be advantageous, somewhat after the plan recommended in a late number of the Edinburgh Review, to report to some high officer of state the reasons of their preference, so that such reasons, and the evidence on which they were founded, might be known to the public, and considered by such official person, with the public eye upon him, previously to the appointment being definitively made. In the same article of the Edinburgh Review to which I have just referred, there are some very important statements relative to the appointment of professors abroad; but they would be difficultly applicable to the state of things here. At the time of Boerhaave, and some of the great men in the latter part of the seventeenth and beginning of the eighteenth centuries, the lectures were uniformly delivered in Latin. But the habit of lecturing in this country in Latin is entirely gone by; so that if foreigners were appointed to professorships, they could with very great difficulty exercise the duties of their chair. The choice would, therefore, be limited to those persons who might be qualified for the situation in these islands, or in America. Various circumstances would also further limit the choice very much. For instance, in a medical professorship, you could hardly get a man of established reputation, either of London or the country, to accept it, because you could hardly give him that sort of independent encouragement that would justify him in changing his residence. It would only be a combination of talents and energy that would secure him a due consideration for his labours. Most men would prefer the emoluments of an established profession to what they would derive from the exercise of duties, which, however honourable and dignified may be the exercise of them, must involve considerable risk, and the necessity of unceasing energy and labour. You must, therefore, depend mainly on the men that Edinburgh would afford, in order to supply the University with professors. I speak of medical professors entirely. But there is another view, I would beg leave to state, with regard to the power of exercising certain functions. I think that a man is very much made by circumstances; powers and qualifications are elicited, and, even to a certain degree, generated, by the necessity of exertion. Although a teacher may not have the highest qualifications at once, it may fairly be expected that the honourable position which he holds, and the necessity for exertions to make it advantageous, will insure a very great extent of improvement. Applying the principle to the official duties of a physician or surgeon to an hospital, it may be said, that it is such situations that so often give the opportunities of becoming eminent in the medical profession. It is, perhaps, owing to this circumstance, likewise, that appointments in various situations in life so often turn out better than might originally be anticipated.

I presume, however, that you do not mean these opinions, however well founded, to form a reason or excuse for electors choosing a middling man, merely because, in several instances, the feeling of responsibility had raised a previously inferior man to high distinction and usefulness?—By no means; for it appears to me of the utmost importance, that electors to vacant chairs should look for the highest qualifications for the office, and not be satisfied with inferior ones;—taking, however, into consideration the other requisites for a professor, to which I have before alluded. There is an institution in London, Gresham College, founded by Sir Thomas Gresham in the time of Queen Elizabeth, which has eight professorships of £100 per annum each, the appointment to which is in the gift of the Mercers' Company, and requires canvassing. They were once situations of note, and many men of the first eminence filled them. There is indeed a work by Dr. Ward, containing memoirs expressly of the Gresham professors. Whether it is, however, from the lectures being given in the centre of the city, in an obscure room near the Royal Exchange, which nobody sees or hears of; or from their being unconnected with any public literary or scientific body which may give them notoriety and usefulness; or from the appointments being conferred very much as personal favours, I know not: but certain it is, that they produce very little or no benefit to the public.

Are the electors of a similar grade with the members of our town council?—It is the Court of Assistants who elect the professors, and have, as in all the corporations of London, the general management of the affairs of the company; and they are certainly of a higher grade than the average members of your town council, being most of them tradesmen of opulence in the city. But still I am inclined to think, that in conferring such appointments they look to obliging friends more than selecting the most competent persons. At the same time, as far as I know, the professors are all men of respectable, though they may not be of the first, literary or scientific rank or attainments.

No. XXIX.—*The Rev. John Stevens Henslow, A.M., Professor of Botany in the University of Cambridge, examined.*

Examination of Professor Henslow. (11th Sept. 1834.)

No. XXIX.

How long have you been a graduate of Cambridge?—I have been a graduate of the College of St. John's since the year 1818, and have been residing in the University ever since.

Have you, since coming to Scotland, had your attention called to the state of our University,—its management and patronage?—Not till yesterday, when I received your letter, and had some conversation with a friend upon the subject.

You are now made aware that the patronage of the University is in the hands of the town council, consisting of 33 persons, citizens of Edinburgh. Looking at this fact, *à priori*, would you say it was a judicious system to secure the election of able professors?—*A priori*, I should say it was a very objectionable system.

Supposing that every vacancy gives rise to a considerable canvass, should you conceive that such canvass must be of a pernicious character?—I should conceive so without a doubt.

Is there anything similar with which you are acquainted in the learned institutions in England?—Not at all; I was quite surprised when I heard it.

Do you consider such a body as the town council have been described at all likely to be on a level

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with the intelligence of the world, so far as to judge of the qualification of candidates, and to fix on merit other than local?—I should say not. The only criterion by which they could judge would be by reports, which must frequently come to them through very erroneous channels.

Do you consider that the number of the electors is a considerable objection to the system?—I should think so certainly, as it may give rise to party feeling, and diminish responsibility in a certain degree.

Do you conceive that the evils of such a system might have the effect of occasionally preventing men of high qualifications, and who would do honour to the University, from coming forward as candidates for filling our chairs?—In some cases men well qualified would be disgusted in having to make such applications, whilst others of inferior merit, who might possess no such scruples, might be inclined to come forward.

When you are informed that not only the election of professors, but the management and direction of the studies of the young men, the regulation of fees, the prescribing the classes to be attended previously to taking degrees, and the regulation for the examination in these degrees, and in general the whole regulation of the internal economy of the College, is in the same hands, should you conceive that such control exercised over the professors might prevent men from offering themselves, who would otherwise be willing to take the situation?—Such powers are by far more objectionable than even the mode of election. In the English Universities no one ever dreams of exerting any control over the duties of the professors.

Your professors are for the most part appointed by the Crown?—There are three or four modes by which the professors are elected. Some by the appointment of the Crown, some by the members of the senate, voting as we say *more burgensium*, and another by the heads of the colleges, who nominate two men, and the members of the senate elect one of these two. Another mode is where the heads of the colleges have the appointment in their own hands.

Have you formed any opinion as to which of these modes works best?—In my opinion that of open election is the best, that is *more burgensium*, where you must consider that every member of the senate is likely to possess sufficient means of ascertaining the proficiency of the candidates. The senate consists of masters of arts, and those of higher degrees.

How many may generally be found voting in the senate?—I cannot say precisely; perhaps three or four hundred.

Is there much canvassing previous to an election for an office in the gift of the senate elected *more burgensium*?—The canvass is merely of this description, viz.: that the candidate's friends make known his pretensions among their acquaintance. It is of a very different description from the kind of canvass carried on in other places, where the direct influence of power or party spirit is brought into play.

Do not the influential men of the University endeavour to carry the votes of their own colleges in support of an individual?—Influence of that description is partially exerted; but one of the chief reasons that I should prefer the *more burgensium* mode of election is, that the other modes are likely to deter those men from presenting themselves who are not well acquainted with the heads of the colleges, who in general are not so likely to know the real pretensions of the candidates as the members of the senate.

Are the professorships in the gift of the senate, in which the election is made *more burgensium*, of considerable emolument?—I believe none of them. On the contrary, they are all of very little value.

Does the emolument depend in a considerable degree on the attendance of the class?—The emolument derived by this means is generally very trifling. The usual salary is about £100, whilst the class seldom produces a sum equal to that amount.

Do you consider that some of the purity of the elections may arise from the smallness of the preferment; and that if an office of great emolument were at the disposal of three or four hundred men of high education, that there would be a certain degree of canvassing, and more influence brought to bear on the electors?—I cannot answer precisely, as I cannot speak from experience on such a question, because we have no such professorships in Cambridge. My own opinion, however, is, that if one of the candidates were decidedly superior to the rest, and the election were conducted *more burgensium*, that he would most certainly be elected. This is my very decided opinion of the elections in Cambridge. But if the candidates were of nearly equal merit, then I should say that the more popular man would succeed, or that the influence of a larger College would be felt.

No. XXX.—*Dr. W. J. Hooker, Regius Professor of Botany in the University of Glasgow, examined.*

Examination of Professor Hooker. (13th Sept. 1834.)

No. XXX.

How long have you occupied the chair of botany in the University of Glasgow?—Since the year 1820.

I presume you are reasonably well acquainted with the patronage and mode of management of the University to which you belong?—Yes; but not so much so as others of the professors. I have had occasion to reply to many queries on this subject proposed to me by the University commission.

Have you had your attention called to the system of patronage and the mode of management of the University of Edinburgh?—Not at all.

It may be necessary then to inform you, that our University is under the patronage of a body called the town council, consisting of thirty-three members, chosen for the common municipal duties, consisting generally of merchants, shopkeepers, and tradesmen, with a small sprinkling now of men of the educated class among them; should you think, *à priori*, without at all looking to the effects of the system, that such a body was well constituted for the discharge of the duties of patronage?—Certainly not, if any portion of them were men not well educated. Their number itself is, in my opinion, a very great impediment to the proper discharge of their duty as patrons, as there are consequently a greater number of interests to be consulted, and as every one may be expected to have his own friends to serve. I might, however, upon those grounds, make the same objections to a body of well-educated men, as is the case in our University, for instance. I do not consider our University as the *beau ideal*, but there are many of our chairs under royal patronage.

Are you aware of the mode of canvass which is adopted here on the occurrence of a vacancy?—Not in the least, from any precise information which I have had. I have understood, however, generally, that a good deal of undue influence has been employed, but I do not know in what particular instance; this I conceive to be one of the greatest objections to such a system of patronage.

Should you be inclined to think that undue influence would have particular weight on the patrons,

considering the class from which they are chosen?—I can have no doubt of it. An uneducated man must be the very worst to form a correct idea of the qualifications necessary for any particular chair in a University.

Do you think that this impediment is at all counterbalanced by the town council representing, as it virtually does, the sentiments of the great mass of the citizens of Edinburgh upon political and other matters?—My own particular feelings would lead me to suppose that it would not. I would be decidedly against such a system of patronage; yet I am quite aware that many persons would express a different opinion. I must state, however, that I have not considered the subject sufficiently to enable me to give a very decided answer.

Do you think that such a body is very well qualified to judge of the particular course of study to be pursued, and the degree of education necessary, for different professions and degrees?—I cannot conceive how such a body can be so qualified. Many individuals amongst them may be competent to judge, but not so the majority, who are of an inferior education.

Should you expect that such a body would be one which the professors would find it pleasant to have over them?—Assuredly not. It would, I have no doubt, prevent many highly qualified and respectable persons coming forward as candidates, who would be most unwilling to ask favours from such individuals. Persons who might be an honour and a credit to the University must, as long as such a system exists, be deterred from standing as candidates for a vacant chair. I should not object so much if the choice depended on the votes of men of good education, or men of high standing in society.

Do you foresee any great difficulty either in suggesting, or in carrying into effect, a reformation of such a system?—I am incompetent to answer this question, not having devoted my attention to such a subject, nor having made any inquiry about it.

Has the constitution of our University, and especially the system of its patronage, been, so far as you know, the subject of conversation among men of science out of Edinburgh?—I cannot say that I have heard any opinion expressed that would entitle me to say so.

Do you consider it as desirable for the interest of this University, that the management should be vested solely in the professors?—That must depend upon their number. My own feeling is, that a small number of them might advantageously take upon themselves the management; the fewer the better, because the fewer they are, the greater the responsibility upon each; and the higher their status in society, the better for the interests of the University.

Are there not some subjects from the discussion of which the professors would be glad to be relieved; such as regarded their own emoluments, and the regulations that prescribe the *curricula* for degrees, where they may be supposed by the public to have a personal interest?—I should have such a feeling; but I am not aware that it would be the feeling of the majority of the professors. If I understand rightly, our University is a much more independent one than this is; but they ought, I think, to be under the control of a head.

Do you think that head should consist of a very small number?—The smaller the better, say five or six individuals of high respectability and character, who should hold their office for a moderate length of time, so as to have a reasonable prospect of becoming acquainted with their duties,—a period of five, six, or seven years; scarcely less, I think, than seven years.

Do you see any incompatibility in such a body discharging the duties both of patrons and of managers of the University, and regulating the details so far as the professors do not regulate them?—I should prefer this to its being in the hands of a great number of persons.

If you were told, that to secure a reasonable chance of success for a chair under the patronage of the town council, it is necessary to canvass in person, and by means of the solicitations of friends, in order to bring to bear upon the electors all the influence in the power of the candidate, and to put forward all his pretensions, as well from connexion, from friendship, and from other motives, as from the merits of the individual,—should you consider that men of the highest qualification and distinction in science and literature would not be inclined to go through such an ordeal for the promotion to be obtained?—Such might not be the feeling of other persons, but certainly such would be mine.

Have you heard at all of a discussion that has lately existed with regard to our museum here?—I have heard a good deal on the subject, but not with much attention. I have seen some of the reports regarding it, prepared by the former Commission.

I speak of a more recent dispute within a few months?—I am not aware even of its existence.

You may not have heard of some discussion between the town council and the professors, with regard to the right of property in class museums and class apparatus?—I never heard a word on the subject.

Have you heard anything about a proposal by the town council to split the chemistry chair into two?—It never reached my ears.

No. XXXI.—*D. Cheape, Esq., Advocate, Professor of Civil Law in the University of Edinburgh, examined.*

Examination of Professor Cheape, (8th July 1834.)

No. XXXI.

What is your opinion of the present system of University patronage?—With regard to that subject there seems to me to be three points to be considered. In the first place, the patronage of the chairs, —in the second, the right of instituting new chairs,—and in the third place, the right of regulating what we may call the internal management of the University. Then, first, with regard to the patronage of the chairs. The patronage of the College of Edinburgh is, for the most part, vested in the town council. Some of the chairs are absolutely in their gift. Some of them are at their disposal under certain limitations, as, for instance, some of the law chairs, the humanity chair, if I remember right, and some others, where a leet is sent to the town council, out of which they choose the professor. Of course, with regard to this subject, it is necessary to distinguish between those cases in which the town council have the absolute nomination, and those in which it is qualified by its being thus exercised merely with regard to the leet which is sent to them. It is plain that in the case of a leet, the persons who send the leet have virtually the right of election. In this case, although the patrons are nominally so, they are not really the patrons, more especially as, in practice, the body that send the leet generally arrange matters so as to give themselves more effectually the patronage, by sending what may be termed a nominal and a real presentee. With regard to the patronage of the town council, confining myself exclusively to those chairs of which they have the *unlimited* patronage, I would be disposed to say, that of the three different kinds of unlimited patronage existing in our Scotch Universities, viz. the patronage of the Crown, the patronage of the different academical bodies themselves, and the patronage of the town council, the last is the most unobjectionable. In saying so,

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however, my observations must be understood to have exclusive reference to town councils as they have been heretofore constituted; because, in the first place, it is only in regard to them we can speak from experience, and with reference to the way in which the patronage has been hitherto exercised; and in the next place, because it is only in regard to them that we can speak with any confidence as to the description of persons forming their constituent members. The question as to how the patronage will be exercised by future town councils must, for both these reasons, necessarily be, in a great measure, a question of mere speculation. We have no acts of patronage of town councils, as at present constituted, to refer to. There has not been hitherto a single appointment to an academical chair by any new town council. And then the new constitution of the town councils has existed for far too short a time to enable any one to see what the effect of the recent change will be, in regard to the description of individuals who compose that body. Its general character may be improved, but it also may be deteriorated. Of course, I speak merely of its character with reference to the patronage of the University.

Thinking as you do of the old and new town councils, do you consider it a fair argument for the continuance of the system that the patronage of the University has hitherto been well exercised?—I do not presume to think of the new town council at all. My opinions have reference exclusively to the old town council.

You have stated that you consider the old town council as the best of the three systems of patronage hitherto employed in Scotland. Do you consider that it is abstractly in itself a very good system of patronage?—I would say, that at first sight perhaps it is not a very promising mode of vesting the patronage; but that, when more carefully considered, and viewing the different influences that are likely to sway the choice of such a body of men, one's first impression with regard to the matter will probably be changed. I conceive that of late years the testimony of experience has been in its favour.

You alluded to the probable influence which might be exercised over such a body, even looking at it speculatively. You must allude to the influence of men of talent and of high station behind the council, not themselves members, who acquire the influence that accompanies rank and talent?—No. I would say, looking at the matter speculatively, that such a body of men as constituted our old Edinburgh town council were upon the whole likely to make a good and beneficial exercise of their patronage from the various influences to which they were subjected. The strong influence of popular opinion I would particularly point at. Their being likely to be acquainted with the men of talent in the place—their being more likely than most bodies of men to know the fittest objects of their patronage; the strong interest they had in the prosperity of the place, and perhaps, above all, the security against anything like the system of favouritism, which may be apprehended where the patronage is vested in the academical body itself.

Do you give any weight to the objections as to the political bias which is likely to influence the town council?—A town council, as formerly constituted, no doubt seems likely to be influenced by political considerations; but certainly not more than the government of the day, and perhaps not more than the Senatus Academicus. The way, however, in which the patronage appears to have been exercised by the Edinburgh town council in the greater number of the recent appointments, rather discountenances the notion that such a body was apt to be greatly influenced by political considerations.

Have you known them electing men of opposite principles to themselves in politics?—Frequently. I would say that the greater number of the more recent appointments were of men of opposite political principles.

You have the same right to look speculatively at the new town council, that you have already exercised looking *à priori* at the old town council?—I have not the same right to form any speculative opinion as to the new town council, because I do not know the materials with regard to which such an opinion is to be formed. I know the materials of the old town council, and I can form a speculative opinion as to the way in which patronage would have been exercised by such a class of persons; but I am quite in the dark as to the future elements of the new town council.

Have you any objections to take the present as an example?—It is a matter of some delicacy to do so, but, taking it as an example, I confess I would not be disposed to augur very favourably.

Would you have any objections to state some of the causes that lead you to think unfavourably of the present system?—If I am called on to state an opinion on this subject, I should say that under the present mode of election it is not likely that you will obtain a body of men in whom the patronage of Universities could with safety be vested. I conceive that under the present mode of election you will probably have a body both less qualified to exercise the functions of patrons of the University, and who are more liable to undue influence in the exercise of patronage.

Do you think the town council as at present constituted is liable to political influence?—I think so, and not only so, but liable to *professional* influence. I think it possible that professional men may become members of the town council with a view of facilitating their admission into the University. I think it is not improbable, that if you had such men in the town council, their choice of candidates for vacant chairs might be influenced by professional likings and dislikings, and professional prejudices, which ought not to influence the choice of a patron. Before concluding this part of this subject, I would wish to say again, that it is only with regard to patronage as exercised by the town council formerly constituted that I should wish to be understood as expressing myself with anything like confidence. I do not think that any man can pretend to express a very strong opinion as to the way in which the patronage may be exercised by a new and hitherto untried body. I conceive that in expressing any opinion as to the way in which patronage may be exercised by the new town council, you are entering the regions of mere speculation. *First*, You must speculate as to the effects of the new system, in reference to the description of men who will in future form your town council,—and, *next*, As to the way in which patronage may be exercised by such men. As to the creation of new chairs in the University, I conceive it to be extremely inexpedient that such a power should be vested in the town council, even as it originally existed. Although a town council may have the means of information as to who are the fit persons for any particular chair, a town council as formerly constituted was a most unfit judge as to the branches of science which ought to be taught in the University, and the way in which they should be distributed.

Was it not evident that when they pretended to judge, they were the mere puppets prompted by somebody else?—Of course.

Have they, in fact, used that power prejudicially to the University, or have they not been on the point of using it dangerously?—I am not aware of any case that has hitherto occurred, in which I would be prepared to any that they have used it in an improper manner; but, from the very nature of

the case, one may say that it is a power that should not be vested in an unscientific body of men. It seems highly improper that a body of unscientific men, as the greater number of every town council must be, should have the absolute power of determining what branches of science should be taught in a University, or the way in which they should be distributed into different departments. I may observe, that there are some proceedings going forward just now, which seem to me to be likely to terminate in an improper use of that power on the part of the present town council: I allude to the proceedings with regard to the chemistry chair. I understand that the town council have resolved on the creation of a lectureship,—for I understand that it is not to be a *professorship*,—of practical chemistry, in addition to the present chemistry class, in opposition to the remonstrance of the Senatus Academicus, and to the opinion of all scientific men with whom I have had an opportunity of conversing on the subject. I have met no one whom I can regard as a competent judge, who has not been decidedly of opinion that it would be extremely prejudicial to the science of chemistry that the two branches should be separated,—that there should be a practical class distinct from the present class, which is both a theoretical and a practical class. I should think that the unnecessary multiplication of academical chairs is the most prejudicial circumstance that can happen to a University.

Have you any objection to state, that the discussion as to the propriety of creating that new chair was mixed up with a personal canvass for an individual?—I have heard of that circumstance from what I am disposed to consider good authority, but I have no personal knowledge of it.

Do you consider that there are grounds of objection in all cases where a question that should be considered abstractly is mixed up with such personal considerations?—I would say generally, but not always. I can conceive a case in which a person, pre-eminently qualified as a teacher of some branch of learning, may have chalked out a department of science as the subject of a new chair, for which he proposes himself as a candidate. It does not appear to me, however, that the case you allude to is a case of that description. I can conceive that an individual might propose the institution of a chair on what he conceived an unoccupied department of science or literature, and that such might be his professional character as to that department, that it would be an act of flagrant injustice to institute the chair without appointing him the professor. I can thus imagine that a man might be the creator of a new department of science for his own advantage. I would instance, for example, according to the best of my information on the subject, the case of the professorship of medical jurisprudence. It was instituted in 1806, under circumstances which, I am inclined to think, gave a claim, an unanswerable claim, to Dr. Duncan, as professor of that chair, and by whom the plan was proposed. But the case alluded to does not appear to me to be such a case as I have pointed at. I could give reasons for this not being such a case. My chief reason consists in this,—that the town council do not appear to me to have afforded any fair opportunity for competition, in a case in which there must certainly be more than one individual fairly entitled to enter into the field as competitors.

The third point is, the internal regulation and management of College discipline,—such as the power of exacting fees, the power of fixing the *curricula* for different professions, and the regulation of the internal government of the College?—I should say that I consider it extremely inexpedient that any power should exist, with regard to the external government of the College, approaching to that which has been recognised by the judgment of the Court of Session, in the case of the magistrates of Edinburgh against the University. I am by no means prepared to say that no power of internal regulation should be passed by the town council, supposing them to be patrons.

To what extent might it be safely intrusted to them?—I conceive that no power of external regulation should be possessed by the town council as patrons, with regard to any matter in which literary or scientific knowledge is required. I should, therefore, be disposed to exclude them from all power as to the regulation of the *curriculum*.

Does this embrace the subject of degrees, and the examination for degrees?—Certainly.

Do you consider them qualified to manage the matter of fees, and matriculations, and fines, and such like pecuniary parts of administration?—I do not regard their control over such matters as altogether free from objection, but I am not prepared to say at present where it could be better vested. I think a control, in regard to these matters, should be vested somewhere else than in the Senatus Academicus. I would not interfere with the professors in the discipline of their own classes.

Would you give a power of appeal to the students of a class, against a bye-law, or any proceeding of a professor?—I certainly would not give the appeal to the town council. A power of appeal to the Senatus I would give in every case; and I am not prepared to say that I would extend their appeal farther than to the Senatus. With regard to what is called the internal regulation of the College, it appears to me that the power of the Senatus should be absolute, even to the extent of removing a student from the College altogether. I cannot see how discipline can be preserved, or the dignity of the Senatus Academicus upheld, except by making their determination with regard to all matters connected with College discipline absolute and final.

On what point is it that you would preserve the authority of the town council in matters of internal management?—I have not said I would preserve their authority with regard to any point of internal management; but with regard to the *regulation* of fees, I see no unanswerable objection to their authority.

If they were not to have this management, do you consider it might be intrusted to the Senatus, as a body, to regulate for each class in the particular point of fees?—It would be a matter of extreme delicacy to give the power of regulating the amount of fees to the Senatus. It is a power which they, for many reasons, would not desire to have, and I do not think it ought to be given to them.

Perhaps you may think so as much from bad impressions that it might give to the public, as from any real mischief that might result from it?—Certainly. Such a power might probably be as safely intrusted to them as to any other hands; but I fear that their conduct in the exercise of any such power would meet with misrepresentation and misconstruction, which would tend to anything rather than to raise the character of the University.

Is there any other part of internal regulation and management which we have omitted that might be safely trusted to the town council?—There are certain subordinate points, for instance, the regulation of the museum and library, and the duties of certain officers of the University, such as the janitor and secretary.

With regard to these, do you think that the town council, if they remain patrons, should have their disposal?—I can see no great harm in the town council having a control in regard to these matters. At the same time, I think the greater part of them might be safely left with the Senatus.

When you have stated for what the town council are unfit, who would you put in their place? Can you suggest any body at present existing, or any body that could be formed, to meet the purposes you

EDINBURGH.
(*App., Univ. Evid.*)

would wish?—I am not aware of any body at present existing to whom these powers would be properly intrusted. I think various plans might be proposed for the formation of a University court, to whom the regulation of such matters ought to be intrusted; but I cannot presume to suggest any scheme for the formation of such a court.

Give us your idea of some of the requisites of such a court.—It ought not, in my opinion, to be a numerous body. I would not have men members of such a court on the sole ground of literature and science, except such members as might be chosen from the Senatus Academicus. I cannot help thinking, that if men of literature and science, not members of the Senatus, were admitted as members of the court, merely on the ground of their literary or scientific eminence, the proceedings of the court might be directed fully as much by literary and scientific jealousies, as by an honest regard for the interest of the University. The members of such a court, who are not members of the Senatus Academicus, ought either to be men of rank or of high official station.

Can you suggest the least objectionable source for the appointment of such a court?—It seems to me to be agreed on all hands, that there ought to be a chancellor as the head of the court, but how he should be elected I cannot presume to say. It is a matter of great difficulty. The office should, I think, be a permanent one, or for a considerable number of years. It would not do to give the election of the chancellor to the town council. In that case, the provost would probably be chancellor. The Senatus Academicus, as an electing body, would be less objectionable than the town council. The chancellor being necessarily an unprofessional person, that power in the hands of the Senatus would in general be well exercised. I cannot at present suggest any body in whom I think the election of the chancellor would be better vested than in the Senatus Academicus. A University court has been proposed by the College Commission. I am disposed to doubt the wisdom of the constitution of the court proposed by them. I decidedly object to the control which it exercises over the Senatus Academicus. The number, I think, should not exceed seven or eight.

Would you give the appointment of one-half of these to the Senatus?—I certainly would not arrange matters so as that one-half should be members of the Senatus. Whatever members of the Senatus may form a part of that court, they ought to be a minority. The principal of the University I would make an *ex officio* member, and one other member of the Senatus might be appointed, making only two of their own number members.

To whom would you give the nomination of the other members?—I have not maturely considered this matter, and would have great difficulty in legislating on it. I think I should be disposed to adopt a different plan from that proposed by the college commissioners in this respect, that I would be inclined to make some of the members of this court members *ex officio*. I am not sure that the heads of the courts of law should not be members of the University court *ex officio*, and I think it might be right that the presbytery should elect a member.

Would you give no nomination to the Crown?—I would not give the nomination of the chancellor to the Crown. If there were *ex officio* members of the Court of Session, I can think of none on whom that privilege could be conferred with greater propriety than on the heads of that court. I see no objection in the dean of faculty being a member of that court *ex officio*.

Do you see any objection to the town council sending a member,—not one of their own body?—No objection, excepting that it would increase the number, if those suggested were all taken. My notion is, that the very best security you have for the proper performance of such duties as would fall to be discharged by this court, is to have a good many of them *ex officio* members, men of high official station.

Have you any other suggestions as to the constitution or the exercise of the powers of such a court?—I think that to such a court might be safely intrusted all that concerns the internal management of the University, which is not immediately connected with what I have ascribed as belonging to the discipline of the college, which ought I think to belong to the Senatus. To such a court might also be intrusted the institution of new chairs, and the direction of the *curriculum*. With regard to the institution of new chairs, this is a power which they must divide with the Crown, because the Crown has been held to have a reserved power of instituting new chairs. This question as to the institution of new chairs would lead into a very lengthened discussion. The power of instituting new chairs is at present altogether undefined. I have little doubt it has its limits, as it may encroach on vested rights which might be maintained in a court of law; but that question has never been tried. At present the right of appointing new chairs is in the town council and the Crown, and it may be said to be altogether indefinite. It is quite certain that they possess it to a certain extent; and it seems no less certain that it may be exercised in a way in which it might be properly resisted. I can entertain no doubt that a professor having an appointment to a particular class *ad vitam aut culpam*, as all such appointments are, might resist the creation of a new class relating to the same subject, but under a different name. It is extremely questionable likewise whether a professor might not have a claim to resist the creation of a new class in which a large department of his subject is given to another; but these are points that have never been tried. I do not, however, go the length of saying that the ground should be unoccupied. I can easily suppose that a branch of a science might properly be taken from one professor and given to a new professor, it being not for the benefit of literature and science that the former arrangement should be continued.

But setting aside the question as to vested rights,—suppose the field to be unoccupied, and the Crown wishes to appoint a professor, and the town council wish to appoint a professor at the same time, which has the preference?—I should suppose that this is a point which must depend on mere priority of time. There can be no doubt that both possess the power according to the constitution of our University, as interpreted by long custom. They both in general exercise the patronage of the chairs which they create; not necessarily, however. There are instances in which the Crown has instituted new chairs, and where the patronage has been given to the town council. There are also cases in which by arrangement the patronage of a chair created by the town council may be vested elsewhere than in the town council: this has frequently happened; for example, the town council has created a chair, the salary of which has been given by Act of Parliament on condition that the patronage should be vested in a particular way. There are a number of our professorships, the salaries of which are given by an Act of Parliament, 29 Geo. I., imposing an ale-duty on the city. In that Act £100 a-year is given to various classes on condition that the patronage should be vested in the town council, but under this qualification, that they should only have the power of choice from a leet to be sent to them. This is the way in which the patronage by leet comes to exist in the college. The appointment to the professorship which I hold is made in this way; and the same is the case with the professorship of Scotch law and humanity.

HIGH SCHOOL OF EDINBURGH.

Letter Professor Pillans, of the University of Edinburgh, to the Secretary to the Commission.

Letter Professor Pillans, (27th April 1834.)

London, 27th April 1834.

Dear Sir,—Having been prevented by indisposition from obeying the summons of the Burgh Commission, and obliged to leave Edinburgh before another day for examination could be fixed, I hope it may not be inconsistent with your regulations to submit the following observations to the members of the Commission. They will at least show my desire to comply with the wish they have expressed through you, that I would state what changes and modifications I had introduced into the discipline of the High School, during the eleven years I was rector, and whether I had any suggestions to propose for the improvement of its condition and management. Being uncertain whether these observations may be of any farther use than to prove this anxiety of mine, and not knowing but that much even of what I do say may be irrelevant, I shall confine myself to a very brief statement of what occurs to my memory. If any of the points mentioned should appear worthy of farther elucidation, it would not be difficult to give it, (particularly in all that refers to changes in the discipline,) from a collection of papers, containing reminiscences of the High School, which I put together soon after I quitted it.

According to my recollection of what passed in the rector's class, when I was myself a pupil in it, assisted by what I have been able to gather from others, the mode of conducting the business was nearly as follows:—

The construing and translation of the Latin lessons given out the day before were generally performed, in the first instance, by the boys at the head of the class; occasionally the lowest boy was called that would volunteer to take up the new lesson. This first construing was accompanied with questions on the parsing, syntax, history, and antiquities; but I have no recollection of any attempt being made to illustrate or connect the train of the author's thought, whether in reasoning or in narrative.

After the lesson had been translated twice or three times among the head boys, the business of translating and re-translating was continued during the rest of the four hours devoted to Latin among the less advanced or less diligent. Thus, it necessarily happened that, after the first hour or even half-hour, the rest of the school time was spent in a tedious repetition of the same verbal translation, which generally became worse and more literal, the lower it descended in the class.

I have no distinct recollection of any *written* exercise, except the Friday one, which was done in the low school, under the eye of the master, and consisted of a few sentences of dictated English, to be turned on the spot into Latin prose. There were, however, if I mistake not, versions given out from time to time to be written at home, such as sentences from Mair's Introduction, and a few lines of Virgil, which some boys occasionally translated into English verse. Passages of Dr. Adam's Grammar were prescribed to be questioned upon, or got by heart; and the same plan was followed, and still more rigorously enforced, with his Roman antiquities.

With regard to the Greek, and the ancient geography, which were taught alternately for one hour a-day, five days in the week, if I am to judge from my own experience, I would say, that in Greek but little progress was made. I went to Professor Dalzel's class on quitting the High School, scarcely able to read the characters, far less to comprehend or construe the simplest sentence. The geography was more successful, particularly in the general views given at the beginning of the course, with the exhibition and explanation of the planetarium; but in the detailed description of a country from a map suspended on the wall, and far removed from the inspection of the pupil, not much interest was excited, and no great progress made.

I shall now proceed to enumerate the new methods introduced into the rector's class between the years 1810 and 1820, as far as they were connected with the business done in school, and the occupation of the pupils during school hours:—

I. The most important and salutary of these new methods I conceive to have been the introduction of the monitorial system, that is to say, the subdividing of a class, whose average number, during my incumbency, was 230, into 23 decades, or companies of ten, of whom one was a superior scholar, taken from among the head boys, and called monitor of division. These monitors were appointed for a given period to superintend the conduct and progress of the other nine; to hear them construe the lesson already gone through in the general class, and examine upon it; and, finally, to report in writing the result.

This method was adopted first in the year 1811, and I found it to answer so great a variety of useful purposes, that it was continued with such improvements as experience suggested every succeeding year; and I have since introduced it, to a certain extent, into the humanity classes in the University.*

To trace the operation of the monitorial method in eradicating the vices which, in a class so constituted, were insuperable under the old system, even by so judicious, able, and assiduous a teacher as Dr. Adam: to explain the facilities it afforded for substituting a spirit of constant emulation and industry in the place of mischievous activity, and the languor of idleness; the means it furnishes to the teacher of becoming acquainted with the attainments and character of individual pupils; of admonishing, encouraging, and reproving; the effects it had in quickening and keeping alive the attention of all—of the *monitors* or best scholars, on the one hand, by the prospect they had of representing the master among nine of their school-fellows, all upon the watch; and, on the other, of the *pupils*, by the certainty of being examined, and of rising or falling in the division and in the general class, according to the amount of their knowledge and attention; to do all this would require an amplitude of illustration and detail inconsistent with the nature and object of this paper.

II. The second change effected in the discipline of the school was the gradual diminution, and, for the last six or seven years, the total abolition, of corporal punishment.

This was an easy and natural consequence of the introduction of the monitorial system. The motives to exertion being indefinitely multiplied in number and intensity, the necessity of making the fear of the rod one of them diminished in proportion; to repress the ordinary misdemeanors of schoolboys, a reproof, kindly administered in the division, or, if grosser, in the assembled class, or, at the worst,

* The object of the monitorial subdivision in the Junior Humanity Class is to obviate, in some degree, the reproach which has been cast on the Language Classes in our well-frequented colleges; that, in consequence of the time for instruction being small, and much of it necessarily and properly employed in prelection and lecture, the examination of individual pupils can only come round at considerable intervals, and that a temptation is thus held out to the younger members of the class to be idle. An extra half-hour twice a week, employed under inspectors answering to what the French call *repetiteurs*, I have found most effectual in binding all to close attention during the regular hours of lecture.

EDINBURGH. (*High School.*)

a translation of the lesson to be written at home, became amply sufficient; and it was understood that corporal punishment, if it were ever inflicted, would be reserved for aggravated moral delinquencies. And thus it was that class attendance, with a vast majority of the boys, lost its character of being an irksome task, and trifling bodily complaints were concealed from the knowledge of parents, lest they should lead to detention from school, instead of being counterfeited in order to escape going to it, as was not unfrequent in former times.

III. A third novelty was the introduction of what was called *Private Studies.* It is obvious, that in a class so numerous as the rector's, and composed of two sets of youths, one a year in advance of the other, the variety of acquirement, as well as of capacity, must be very great; and that the task prescribed to suit the average ability of the class will be comparatively easy to the most advanced. For the latter, therefore, a course of classical reading was chalked out as a voluntary private exercise, to be prosecuted at home in the intervals that could be spared from all other duties, and the result to be shown in a certified written document at fixed intervals. Thus a career was opened for the finer and more ambitious spirits, which led to much emulation and proficiency, both in the Latin and Greek languages.

IV. The introduction of Latin Versification was another novelty, which, however unsuccessful and infelicitous at first, has, I conceive, led to greater correctness in quantity, and more practical knowledge of the proprieties and beauties of Latin Poetry, than were general in Scotland before the period I speak of.

V. Exercises were also introduced, (particularly during holyday-time at Christmas,) of a more advanced and improving kind:—such as Analyses and Abstracts of the Narrative of Livy, or the Argument of an Oration of Cicero,—composed in English, and sometimes in Latin.

VI. Quarterly public Examinations were instituted. The object of this new practice was, that the business of each three months should be revised at the close of that term, and an audience collected, which might give importance to the examination, and make it formidable to the pupils; and that thus accounts should be, as it were, closed with that quarter's portion of the entire year's course of study. In this way the revise of the whole year's business in the months of June and July, with a view to the annual examination in August,—a revise so wearisome and unprofitable both to teacher and taught,—was in great measure avoided. New lessons continued to be given out, and the interest of the school business was kept up to the very end of the session.

The other changes and new methods which I have to mention relate to the mode of communicating instruction in Greek and Geography,—subjects, both of which were themselves happy innovations of my predecessor: for, by its original constitution, and the uniform practice till his time, the High School was a seminary for teaching the Latin language only. And this fact will account for the unduly small proportion of time devoted there to Greek,—the Greek class being, in truth, a private one of the rector's, taught by him at an extra hour for a separate fee, and attended, from its being optional, only by part of the class.

VII. In order to meet the difficulty just stated, and enlarge the teaching time for Greek, I met the most advanced students of that language for an additional half-hour after eleven, and I substituted the reading of Greek Testament on the Monday mornings for that of Buchanan's Psalms, with all those who belonged to the Greek class. By this means I more than doubled the time that had ever been given to Greek.

VIII. It was thus I was enabled to introduce the reading of the epic and dramatic poetry of Greece, where nothing had been attempted before but Greek Testament and Analecta Minora. By encouraging private studies in that language, also, large portions of Homer, sometimes the whole Iliad, and of Herodotus, were prepared and examined upon publicly.

IX. Another method was suggested by the heterogeneous composition of the Greek class under the rector. It consists, at the commencement of the annual course in October, of three sets of pupils:—1. Of those who are entering the rector's Greek class for the second year. 2. Of those who come from the fourth class, where they have been taught a little Greek; and, 3. Of those who know nothing of Greek whatever. In order to bring up this last class to the level at least of the second, I assembled them along with the second for an extra hour at the beginning of the session, and explained the great outlines of Greek grammar, not by a printed book, but by black boards, on which were delineated the prominent facts of Greek declension and conjugation, in such a manner as to fix them deep in their memory, by the joint impression made on the eye and the ear. In this way, it happened not only that the novices were able, in a fortnight or three weeks, to join their fellows, but that the abler among them conceived a preference for Greek, which carried them to the very head of the Greek class before the month of August.

X. In the last year or two of my being rector, I introduced the making of Greek verses on the model of Homer, and with some success.

XI. In the geographical part of the instruction, my attention was early called to the impossibility of fixing the eyes or minds of a very numerous class on the minute and confused details of an ordinary map. To overcome this difficulty, I delineated on a large black board, with chalks of different colours, the great outlines and prominent features, whether natural or artificial, which are cognizable by the senses, leaving out all names, conventional lines of boundary, &c., and putting nothing down but what was meant to be made the subject of instruction. This chalked board being placed on an easle before the boys, and each part pointed out with a rod to the eye, while the necessary information about it was at the same time addressed to the ear, gave an entirely new aspect to this class, and produced a very general interest in the subject.

XII. The pupils were encouraged to execute copies or imitations of this outline on the board as a voluntary exercise; and with the best of these framed and suspended in the school-room, the monitorial system was practised in this department also, with singular advantage.*

XIII. I may mention, lastly, a practice which I introduced occasionally in the last part of my rectorship, and found of singular advantage,—that of referring cases which required investigation and evidence to a jury of boys.

Before leaving the subject of Innovations, I may mention that the discomfort, inconvenience, and risk of health arising to boys from sitting so long at a time on simple benches, led me to the contrivance

* The principles on which the geographical instruction was conducted are briefly explained in an Introduction to Outlines of Ancient Geography, printed last year, (pp. 13-20,) of which I transmit a copy.

of that form of bench, having a back to support the spine, which has since been adopted universally in the High School and Academy class-rooms.

All the changes stated above were effected without any communication with or authority from the patrons, except the last, which, as it required the outlay of a little money, I could never prevail on the council to extend to all the benches of the school, or even of my own class-room.

Since my time, however, and particularly since the erection of the new school, the magistrates have taken a more active share in the direction, and not always, I conceive, wisely.

They have done well in attaching to the High School a teacher of the elements of mathematics; but I doubt much the propriety or utility of establishing, as they did in their programme printed six or seven years ago, what is called the Class of General Knowledge, to be taught by the master of each class to his own pupils, at a separate portion of time. The best mode of communicating "General Knowledge" to boys at the High School is in illustration of the classic in hand, by taking occasion, from the text before them, to expatiate on such topics, moral, physical, and historical, as are suited to the pupil's capacity, and tend to amuse and imbue with the love of knowledge. If there was any popularity in the mode of teaching which I practised, (and it may be mentioned, as a proof of its not being unacceptable to the public, that the number of the rector's class in 1810, my first year, was 144, and that it gradually increased, till it rose in the last to 288,) it was, I conceive, mainly owing to this intermixture of general information with the construing of Latin; and any attempt to separate and administer the two ingredients apart must, I think, end in reducing the value of both.

With regard to the teaching of French, which is rendered imperative, by the same programme, on all the High School masters, each in his own class, if the regulation has not already become obsolete, it cannot too soon be expunged. If there is to be French at all, it should be taught by a native.

I shall proceed now to point out one or two defects, of older standing, in the constitution and discipline of the High School, to which it would be desirable to apply a remedy.

The greatest of them all, and one which I felt it quite beyond my power to deal with, is the practice, sanctioned by long use, of carrying on under the same master the same set of boys, amounting to 100 or 150, from the *first*, or rudiment class, to the rector's, or *fifth*. No provision has ever existed for classifying these boys as they proceed, according to their proficiency; no means of either accelerating the advance of the able and assiduous student, or retarding that of the slow and the idle: nothing corresponding to the Eton plan of making a boy lose a *remove* or gain a *double remove*. The boys that enter the first year are regarded by the master who receives their fee as a sort of patrimony for four years, and his pecuniary interest would lead him to resist any attempt to deprive him either of his best or of his worst scholars. Thus it happens that, like straight lines diverging from the same point, the difference in actual attainment among these boys becomes more and more sensible as they proceed in the course, till at last they are assembled in the rector's class in all the gradations between good scholarship and absolute ignorance. Disparity must, no doubt, exist even in the most skilful arrangement of large classes, amidst the infinite diversity of human talent and of the period of its developement, and a certain amount of such disparity is useful in stimulating the youthful faculties; but the large number of the pupils in the High School, and the small number of masters, coupled with the system I have just explained, have a tendency greatly to increase the inequality, till both extremities of the class are paralyzed, the higher from having too little, and the lower too much, to do. The monitorial system presented an admirable means of abating this evil; but it was too deep-seated to be entirely removed by it.

1. One of the most important improvements, therefore, that could be effected in the discipline and constitution of the High School, would be to have annual, or, what would be better still, half-yearly examinations of the pupils in the four inferior classes, conducted by well-qualified examiners not being masters of the school, in order to ascertain who were entitled to pass on regularly to the next step, and whether any deserved to be advanced two steps, or could not earn a title even to one. A few examples of promotion and exclusion would have a salutary effect in exciting emulation both among the pupils and the teachers; neither would it, in the long run, have any prejudicial effect on the emoluments of the latter, but rather the contrary, by increasing the efficiency and reputation of the seminary.

2. In order to secure a consistent and uniform system of instruction and discipline, it would be desirable to define and greatly enlarge the rector's power of superintendence, control, and direction. The only surviving remnant of such power, (and its very existence proves that more was originally contemplated,) is the practice, still observed by the rector, of visiting each of the inferior classes by turns once a-week. Even this is now little more than a ceremony; for were the rector, in consequence of what he saw in a junior class, either to remonstrate or to prescribe, it would probably be taken amiss, and no attention paid to it by the under master. I never ventured to *recommend* even, far less to *enforce*, any one of the changes I have stated above on any of my colleagues.

3. I have often thought it desirable that means could be contrived for encouraging a little more of that intercourse among our boys, at other hours besides those of instruction, which prevails so much in the great schools of England, and which, under proper regulation, would be found most improving to the youthful character. For example, it would, I am confident, be attended with the happiest results, were the ample accommodation of the new building made subservient to the object of enabling the pupils to breakfast together before entering the school-room.

4. With the same view I would have the apparatus for gymnastics erected in the play-ground, which, though considerably larger than the last, is miserably deficient in the means of keeping the boys together in the enjoyment of healthful and manly sports.

5. With regard to the patronage of the High School, I am inclined to think that it cannot be better placed than where it is—in the hands of the town council. If a ministry of public instruction were ever to form a part of our government it might be well to lodge with it the final appointment, reserving to the town council the power of recommending; but, as things are at present, I see no public body more likely to discharge the duty honestly and skilfully.

I have thus compressed into as small a compass as possible the chief points that occurred to me while at a distance from my notes and papers. I could add much more to the length of a communication which I have no doubt the Commission will think already too long, and which, had the time allowed, I should have copied over and abridged.

I am, dear sir,

Your obedient and faithful servant,

PHINEAS DANIEL, Esq., J. PILLANS.

Secretary to the Burgh Commission.

EDINBURGH.

DISSENT FROM THE REPORT ON THE CITY OF EDINBURGH.

SECTION III., SUBDIVISION 7.

I DISSENT from the passage in the Report where it is said that, if the obstacles to the adoption of so large a measure as that proposed for the union of the different portions of the ecclesiastical establishment within the parliamentary boundaries "should prove insuperable, still it would be expedient that the ecclesiastical establishment within the present royalty should be reduced to somewhat of a just proportion to the amount of the population of the royalty, as compared with that of the external districts, by uncollegiating the city churches, and diminishing the number of the ministers to that of the present parishes:"—Because the population of the royalty of Edinburgh is more than twice as great as it was when the number of the ministers was fixed at 16:—Because I have reason to believe that most of the seats in the city churches, stated as unlet in the returns made to the magistrates, are regularly occupied by persons connected with the establishment, but who pay no rent; and that, in several of the churches, the number of communicants alone exceeds the number of those who pay seat rent:—Because I am not therefore convinced that there is at present adequate accommodation within the royalty for persons connected with, and desirous of having seats in, the established churches: or that 20 ministers are more than sufficient for the religious instruction of a population of 55 or 56,000 persons, even after making every allowance for the number of dissenting clergymen of all denominations within the same limits: nor that it will not be more expedient to increase the number of churches on the establishment than to diminish the number of ministers.—And because I have no doubt that means for erecting the requisite number of churches may easily be procured without the imposition of any new tax upon the inhabitants of the city.

18*th May*, 1835. RO. BELL.

REPORT

ON

THE BURGH OF ELGIN,

(MORAYSHIRE.)

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ELGIN.

History and Charters.

THE Burgh of Elgin, once of importance as the See of the great bishoprick of Moray, is now considerable only as the centre of a large and well-improved agricultural district, and as the head burgh and seat of the sheriff court of the shire of Elgin and Forres.

Elgin appears to have been a town of some note even before it became the episcopal See of the diocese, and from the dates of many of the charters of William the Lion, and the two Alexanders, it must have been a favourite and usual place of residence of these monarchs.

1189—99. Chart. Mor. p. 9.

King William grants to Richard, bishop of Moray, £10 annually "*de firma burgi mei de Elgin;*" and, in numerous Charters, reserves the privileges of his burgesses of Elgin. No charter, however, of so early a date, expressly granting the privileges of a free burgh to the town of Elgin, has been preserved.

Chart. Mor.

In 1224, Alexander II. consented to the removal of the seat of the cathedral of Moray from Spyny to Elgin, which from that time became the centre of ecclesiastical affairs and the residence of a powerful prelate: and a richly endowed chapter of canons served in some measure to counterbalance the power of the earls of the district, and gave to Elgin the character of an ecclesiastical town, more than was exhibited by any other in Scotland, except perhaps St. Andrew's and the city of Glasgow, before the latter rose into commercial importance.

Ch. in Archiv. Burg.

In 1269 Alexander III. granted, "*Burgensibus de Elgin ut ipsi ad meliorationem burgi nostri de Elgin habeant in eodem burgo gildam suam mercatricem adeo liberam sicut aliquis burgorum nostrorum in toto regno nostro gildam suam habet liberiorem.*"

Chart. Mor.

By the well-known charter of Robert I., granted to Thomas Ranulf, of the earldom of Moray, while it is provided that the barons and free tenants of the earldom, who held of the Crown in chief, should henceforth hold of the earl, it is also declared, "*quod burgi et burgenses de Elgyn, de Forres, et de Invernarne, easdem libertates habeant et exerceant quas tempore Domini Alexandri Regis Scotorum predicti et nostro habuerunt, hoc solum salvo quod de nobis tenebant sine medio et nunc de eodem Comite tenent cum eisdem libertatibus.*" In virtue of this extraordinary grant, the earls of Moray seem to have come effectually in the room of the sovereign with regard to the burgh of Elgin.

Ch. in Archiv. Burg.

In 1390, John of Dunbar, Earl of Moray, in consideration of the damage occasioned to the burgh by three pestilences, and various violent attacks of different persons, remits the assize of ale, formerly paid to the earl's castle of Elgin, or, in lieu thereof, 100 shillings out of the farm of the burgh, yearly.

In 1393, Thomas of Dunbar, Earl of Moray, grants to the aldermen, bailies, and burgesses of OUR burgh of Elgin, an exemption of custom upon "all the wool, the cloth, and other things that goes by ship out of our haven of Spey."

Ch. in Archiv. Burgi.

In a later time (27th Oct. 1451) Archibald of Douglas, Earl of Moray, grants a Charter, engrossing the royal charter of Alexander III. above quoted, which he also thinks proper to confirm in the common style and language used in the charters of Kings confirming the grants of their predecessors.

Acta Parl., v. iv. p. 380.

In 1607, the burgh mails of Elgin and Forres were excepted in the parliamentary ratification of the Earl of Moray's investiture, to remain with the Crown.

Constitution.

The Constitution of the burgh, previous to the operation of the Burgh Reform Act, was fixed by an Act of the Convention of Burghs, 8th July 1706. The council consisted of a provost, four bailies, dean of guild, treasurer, and two other councillors. The deacon convener of the trades, and two other deacons chosen by the council, were included in this number. Five went out of office annually, and their successors were chosen by the council. None were eligible according to the sett except residenters and burgesses. The council of the dean of guild, and fifteen persons to be stent-masters, were annually chosen by the town council. The qualification of residence was not attended to in practice.

Population.

The whole Population of Elgin amounts to about 5,000.

The number of persons resident within the proper bounds of the burgh, whose rents in property or tenancy amount to £10 and upwards, is 213, of whom 95 are burgesses; beyond the proper bounds of the burgh, but within the parliamentary boundaries, 50, of whom six are burgesses.

The number of persons resident within the royalty, having rents in property or tenancy of £5 and upwards, under £10, is 110, of whom 40 are burgesses; beyond the royalty, but within the parliamentary boundaries, 21, of whom one is a burgess.

Alienations.

There have been very few Alienations of burgh property within the last 40 years, excepting feus for an adequate annual feu duty. The actual sales have generally been of the naked superiorities of subjects previously held feu, for political purposes. Before 1822, alienations were occasionally made by public roup, and after due advertisement, but occasionally also by private bargain. Since that year, all sales, feus, and leases, have been conducted according to

ELGIN.

the proper and statutory regulations; and, both before and since the passing of the Act 1822, the produce appears to have been applied to the proper purposes of the burgh.

HARBOUR.

About the year 1698, the town council feued a piece of ground at the mouth of the river Lossie, about five miles from Elgin, where they built a Harbour, on which the burgh has from time to time expended considerable sums. The shore-dues leviable were regulated by usage alone, down to 1823, when a fixed table of shore-dues was approved of by the council, and printed, and that has ever since been the rule of collection. The anchorage and shore-dues are let every three years by public roup. They at present produce a revenue of £74 a-year, which is not nearly sufficient to meet the expense attending the annual repairs of the harbour.

PROPERTY.
REVENUE.

Besides the common unproductive Property of gaol, church, council-room, &c., the burgh has a Revenue arising from land, yielding a rental of - - £107 18 9

Houses rented at - - - - - -	25	19	7
Feu-duties - - - - - - -	241	4	1
Anchorage and shore-dues of Lossiemouth - -	74	0	0
Petty customs of the burgh, farmed at - -	60	0	0
Shambles, mails, and dung - - - -	14	6	0
A seat in church - - - - - -	4	0	0
Casual revenues from the entries of feu-vassals, entry of burgesses, &c., amounting to about	187	11	11
	£715	0	4

EXPENDITURE.

The annual Expenditure, upon an average of five years, may be stated under the following heads:

	£.	s.	d.
1. Salaries to public officers, assessors, two gaolers, drummer, billet-master, clock-keeper, and school salaries - - - - - - -	228	15	2¾
2. Interest of debts - - - - - -	39	12	11
3. Rents and feu-duties - - - - -	9	18	4
4. Aliment to prisoners after conviction - -	16	15	2
5. Repairs of Lossiemouth harbour - - -	124	10	11
6. Miscellaneous payments, containing payments of business accounts, for repairs of streets and management and improvement of burgh property, entertainments, and other incidental expenses - - - - - - - -	399	17	2
7. Treasurer's per centage - - - -	30	11	9
8. Wages of police officers - - - -	29	18	8
9. Burgh mails and cess - - - - -	7	18	3
	£887	18	4¾

DEBT.

The whole sum of Debt due by the burgh is £794 10*s.*; but the burgh is also answerable for the application of £18 12*s.* 7*d.* yearly, arising from sums mortified in their hands for charitable purposes.

TAXATION.

It is stated to be a common impression, that the magistrates of Elgin have the power of imposing local Taxes, with the approbation of a head court of the burgesses. No charter has been discovered supporting this notion in any way, which appears to have arisen from a clause in the sett of the burgh already quoted, declaring "that no stent be imposed upon the inhabitants of the burgh, excepting the public cess due by law, without consent of a head court." It is probable that this has occasionally been done. In the report of the convention commission, at the end of the seventeenth century, it appears that the expenditure then much exceeded the income, and the magistrates declared to the commissioners that they had no other way of making up the deficiency "but by stenting the inhabitants."

There is no recent instance of any stent being imposed for any other purpose than the payment of the land-tax, burgh-mails, and dues of the convention of burghs, and the expenses immediately connected with these. The market-dues and petty customs, as in other burghs, are levied according to a rate fixed by the town council, without any authority by charter or statute for the present rates. They are let by public roup triennially. The present farmer pays £60 yearly.

JURISDICTION.

The Jurisdiction of the magistrates extends only over the burgh and the lands held in burgage, and a considerable population within the parliamentary boundaries of the town is thus excluded from their jurisdiction. Their criminal jurisdiction is in practice confined to the trial of petty offences. On an average of five years, these did not exceed two per annum. Of civil cases, on an average in the same five years, there were only two actions of debt above £25, and an average of 10 per annum of defended actions for debt below £25. The magistrates formerly employed an assessor, with a salary of £10 per annum, but they have now discontinued that office, and take the assistance of the town clerk when required. It is the opinion generally, both of the inhabitants of the burgh, and of the inhabitants of the district beyond the royalty, and within the parliamentary boundaries, and especially of the adjoining village of Bishopmills, that the whole parliamentary district should be joined, in all respects, to the burgh, in privileges, jurisdiction, and burdens.

PATRONAGE.

The town council has the appointment of the common burgh officers. The town clerk has no salary; he is appointed for life. His emoluments arise from the exclusive right of taking sasine within burgh, from fees of court, fees as keeper of the record, town's business,

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&c., estimated by the present clerk at £150 yearly. The treasurer is paid an allowance of five per cent. on his actual collection. The collector of cess levies yearly, along with the duties, £10 10*s.* of salary.

The principal school under the patronage of the burgh is the academy, of which the classical master has a salary of £50 per annum, and the mathematical and English masters £45 each. These masters are appointed by the magistrates, after a report by the presbytery upon their qualifications. Assistant teachers are appointed by the three principal masters. The fees are fixed by minutes of council, 23d April 1803, and 3d April 1827. The burgh likewise pays £15 as a salary to a teacher of a girls' school, whom they appoint; and £5 to the master of the trades' school, appointed by the incorporated trades. Two guineas annually are paid to the schoolmaster of Lossiemouth, who is appointed by the town on the recommendation of the minister of the parish.

Various lands and small sums of money have been mortified and vested in the hands of the burgh, for the purposes of education; but these do not produce a sufficient annual revenue to meet the expenses of the schools.

EXCLUSIVE PRIVILEGES.

The qualification of being a burgess is necessary to entitle any one to manufacture or trade within the bounds of the burgh. The fees of entry for a merchant burgess are £20; of that sum £8 originally went to the guildry incorporation; at least there is the strongest presumption that this was the fact, from the circumstance of that amount still being paid under the name of guildry-fee, and only £12 under the name of burgess-fee, and of separate accounts being kept for the guildry and burgesses down to 1830; although it is certain that, from an early period, which cannot now be fixed, both sums have been appropriated to the common good of the burgh.

The guildry or merchants' incorporation, having thus no revenue from fees of intrants, commenced, in 1714, a voluntary contribution for the benefit of decayed brethren and widows and children; and the subscribers entered into regulations, constituting themselves, to all intents, a friendly society upon the common principles, except that the relief is bestowed according to the circumstances and the station in society of the claimants. One of the rules of the society is, that no member of the town council can be a manager. The income of this association, arising chiefly from rents and feu-duties of land, is about £300 per annum. The entry money is now £40 for unprivileged persons; for eldest sons of members no fee; for other sons of members £4. There are now 35 members on the roll; about £200 a-year is paid in charity, the pensions to widows ranging from £10 to £16.

There are six incorporated trades, each of which claims the exclusive privilege of exercising its craft within burgh, except the weavers' incorporation.

The incorporation of shoemakers, consisting of 59 members, is possessed of property yielding £94 yearly.

The tailors', composed of 33 members, has £660 of accumulated funds, and about £23 yearly from land the joint property of the incorporated trades.

The hammermen have 35 members, £300 of accumulated funds, and the same income of £23 from the common property of the trades.

The glovers are 28 in number, and have an accumulated fund of £592 10*s.*, with £23 annually from the common property.

The wrights, 79 in number, have £170 of accumulated funds, and £23 from the trades' property annually.

The weavers have 54 members, an accumulated fund of £310, and a property yielding £15 16*s.* annually, together with the same interest as each of the other trades in their common property. This incorporation claims no right of excluding unfreemen. Its rate of admission for unprivileged members is £5, for the eldest son of a member 10*s.* 6*d.*, and for the apprentice of a freeman of the trade £3 3*s.*

Minute, 5th November 1824.

With regard to the other five trades, notwithstanding the considerable difference in the amount of their property, and number of the members claiming an interest in it, the town council, while properly interfering to prevent an exorbitant increase of the admission-fees proposed by some of the trades, have somewhat arbitrarily fixed the admission-fees for strangers to all the trades at an equal rate, viz. £16, without taking into consideration the varying amount of benefit to be derived by the members of each. At the same time the council has lent itself to the undue preference shown by the trades to the sons and sons-in-law of freemen, who, in the richest incorporation, (that of the shoemakers,) are admitted for £1 2*s.* 6*d.*; and, by the glovers, sons are admitted on payment of 10*s.* 6*d.* The shoemakers are the only craft who admit none but workmen of that trade.

In all the trades the income arising from their property or accumulated funds is appropriated to the relief of widows, decayed members, and others having claims upon the trade, according to certain recognised and equal allowances, and not depending upon the comparative circumstances or previous station of the parties.

The flourishing state of the incorporation of weavers, though deprived of the exclusive privileges enjoyed by the other trades, seems to indicate that these bodies might be continued to all their useful purposes, if their exclusive privileges, now become generally odious, and evidently impolitic, were taken away, and their funds, entry money, and pensions placed under proper regulations, such as are applied to other friendly societies.

The deacon of the weavers is of opinion that the privilege of excluding unfreemen from working would not benefit the craft in the least d eree; on the contrary he considers it would injure the trade. The deacon of the shoemakers, on the other hand, thinks that the public receive advantage from the exclusive privilege exercised by his craft, by the prevention of lads inexperienced, and without capital, from setting up in business; and the other privileged

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trades are generally of opinion that their privileges are of advantage to the community as well as to themselves. The opinion of the great majority of the other inhabitants seems to be the reverse. They consider that the community suffers, and the corporations and their individual members take no benefit from the privileges of exclusion.

POLICE.

There is no local statute for regulating the Police of the burgh. The town is lighted with gas by a voluntary assessment on the inhabitants and £30 paid by the burgh. There are no pipes for the conveyance of water, which is taken from common wells and from the river. The streets are paved at the joint expense of the burgh and the turnpike trustees of the county. Two constables are employed at a weekly allowance of 8*s*. each, paid by the burgh. There are no night watchmen.

DOCUMENTS.

The following Documents accompany this Report:—

1. Answers to Heads of Inquiry issued by the Commissioners, October 1833.
2. Declaration of Mr. Mackimmie, Dean of Guild.
3. Declaration of Clerk to the Guildry Charity Fund.
4. Declaration of Robert Bain, Clerk of Tailors.
5. Declaration of John Smith, Deacon of Glovers.
6. Declaration of James Dick, Deacon of Hammermen.
7. Declaration of Alexander Brown, Collector of Incorporation of Wrights.
8. Declaration of Thomas Stephens, Deacon of Shoemakers.
9. Declaration of William Murdoch, Deacon of Weavers.
10. Declaration of James Smith, Tacksman of Bishopsmills.
11. Account Current of Alexander Innes' Intromissions as Guild Treasurer, 1830.
12. Account Current of Lewis Anderson's Intromissions as Interim Guild Treasurer, 1830.
13. Rental of Subjects belonging to the Burgh, 1831.
14. Rental of Subjects belonging to the Burgh, 1833.
15. Treasury Accounts of the Burgh of Elgin.
16. Regulations of Guildry Fund, October 1833.
17. Rules and Regulations of Shoemaker Incorporation.
18. Return of Land and Trades' Cess for 10 years preceding Michaelmas 1833.
19. Abstract of Petty Customs of Elgin, as fixed by the Town Council, 23rd November 1812.
20. Table of Shore and Harbour Dues of Lossiemouth, October 1833.
21. Printed Copy of Sett of Burgh.
22. Return of Cases tried in Burgh Court, from 1828 to 1832.
23. State of the Funds, Debts, &c., of the Burgh.
24. Digest of the Burgh Accounts for five years.

ROBERT HUNTER,
C. INNES.

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REPORT

ON

THE BURGH OF FALKIRK,

(STIRLINGSHIRE.)

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FALKIRK.

FALKIRK is a town of some antiquity and of historical note. It is supposed once to have been wholly comprehended within the ancient barony of Callander. Subsequently, the church appears to have become dependent on the See of St. Andrew's, and was, along with the contiguous lands belonging to it, gifted in 1166, by Richard bishop of that See, to the Abbey of Holyrood. The lands of Falkirk came to be included in the extensive barony and lordship of Kerse, belonging to this monastery, which was in 1393 erected by Robert III. into a free regality. History.

At the Reformation, the monastery of Holyrood feued out its temporal possessions to Sir John Bellendean, Lord Justice Clerk, whose son, Sir Lewis, obtained in 1587 a Crown charter from James VI. of these acquisitions, which were constituted into the new barony of Broughton. The barony of Kerse, called Abbots-Kerse, comprehending the lands of Falkirk, and the patronage of the church, was included in this new barony.

In 1606, Sir Lewis Bellendean conveyed the lands of Falkirk to his brother-in-law, Alexander, seventh Lord Livingstone, who possessed the barony of Callander.

The family of Livingstone obtained the barony of Callander in the reign of David II. Part of the town of Falkirk held of this family. In 1600, James VI. granted a charter of *novo damus* in favour of Alexander Lord Livingstone, of the barony of Callander, in which the town of Falkirk was erected into a free burgh of barony, with privileges of merchandize and artificers, as in other free burghs, and with power to Lord Livingstone of creating burgesses, holding weekly markets, having two fairs annually, of electing bailies and other officers for the government of the burgh, and of holding courts within the burgh. This charter also contained a grant of regality, but which it was provided should evacuate on payment of £10,000, said to be due to Lord Livingstone by the Crown.

In 1634, Alexander, Earl of Linlithgow, granted the barony of Callander to his brother, Sir James Livingstone, who was created by Charles I. successively Lord Almond and Falkirk, and Earl of Callander.

In 1637, the bishop of Edinburgh, to whose bishoprick the possessions of the abbots of Holyrood had been annexed, with consent of his dean and chapter, (the minister of Falkirk being one of his prebendaries,) conveyed to Lord Almond, by charter of *novo damus*, the whole barony of Falkirk, with all the feudal casualties and powers formerly held by the abbots of Holyrood. This charter confirmed the grant of Alexander Earl of Linlithgow to Lord Almond, and conveyed a power to the grantee of bailiary and justiciary, &c.

In 1646, the Earl of Callander obtained a charter from the Crown, erecting his estates, including the baronies of Callander and Falkirk, into a free regality, to be called the regality of Callander, with the usual powers and privileges. By this charter, the town of Falkirk, as well that part of it which from ancient times was held of the abbots of Holyrood as the remaining part of the town which was from ancient times part of the barony of Callander, is united and erected into one whole and free burgh of regality, to be called the burgh of Falkirk. Power is given to build a court and prison, to erect a market cross, to elect and name bailies and other magistrates, to create free burgesses, with liberty to them to sell all staple goods and others imported from within or without the kingdom, and generally to exercise all the privileges of a burgh of regality. There is also a grant of two weekly market days and four free fairs, with power to the earl and his bailies to draw the customs of the fairs and markets, and to apply them as they think proper. This charter was ratified by Parliament, March 27th 1647; but the ratification is now lost.

The estate of Callander, on the earl's resignation, passed to Alexander Lord Livingstone, his nephew, who in 1663 obtained a charter from Charles II., which recites the charter of Charles I., and besides conferring various privileges, and constituting the whole estates of the grantee into an earldom, it of new erects the town of Falkirk, with the pertinents thereof, into a free burgh of regality, with all the privileges in the charter recited.

The town continued to hold of the family of Livingstone till the attainder, in 1715, of the Earl of Linlithgow and Callander, by whose forfeiture his estates and superiorities became vested in the Crown. In 1720, the estate of Callander was purchased by the York Buildings' Company, from whom, in 1783, it was acquired by the late William Forbes of Callander, the father of the present superior.

During the time the estate was held by the York Buildings' Company, there was always a resident baron-bailie; and Mr. Forbes continued to name a person to that office till about the end of the last century. Since then the office has been vacant, and the old barony gaol was allowed to go to ruin, and afterwards removed.

The management of the affairs of the town and community is at present vested in two separate bodies, the stent-masters and committee of feuars.

The Stent-masters are a very ancient body, and their records go back more than 150 years. They are elected annually, and are 24 in number, four being chosen by the merchants, two by each of the trades of hammermen, wrights, weavers, shoemakers, masons, tailors, bakers, and brewers, and four from the suburbs of the town. Every person who carries on business Stent-masters.

FALKIRK.

in any of these trades is qualified to vote for and be elected a stent-master of his craft. After election the stent-masters name out of their body a preses and treasurer, and they have also a clerk. The stent-masters are the governing body in the town, and their powers are founded on immemorial usage. They have no jurisdiction, however, and apply to the sheriff by ordinary action, in name of their preses and treasurer, to have their decreets enforced; and, it is said, that Judge has uniformly supported their authority. The minute-book and cash-book of the stent-masters were both produced.

Committee of Feuars.

17th December 1807.

The Committee of Feuars is of more recent origin. The greater part of the town is held feu of the estate of Callander. The feuars had by their titles generally a right of pasturage, and feal and divot, and quarrying stones in the muir of Falkirk. But a declarator of division of the commonty having been brought by the proprietor of Callander, the feuars obtained by a decree of the court of session, in return for a renunciation of their rights of property, commonty, or servitude in the muir, First, That *ten* acres should be set apart to be possessed as common property by the whole feuars and others having interest in the muir, as a *servitude* for feal and divot, and quarrying stones; and Second, That *twenty* acres should be enclosed at Mr. Forbes's expense, and set apart to be possessed in time coming as the common property of the feuars having an interest in the common, and inhabitants in the town of Falkirk, to be managed and the profits applied in such manner as the majority of the feuars, or any committee to be by them appointed, shall deem most expedient for their and the general good of the town. Further Mr. Forbes gave up to the feuars and proprietors of lands and tenements having or claiming an interest in said common, to be managed for their and the common good of the said town, *an acre* of ground on which the fairs of Falkirk were held, to be occupied and possessed in time coming as the market, to hold feu of Mr. Forbes for payment of 1*d.* Scots. Lastly, Mr. Forbes agreed to dispone to trustees to be chosen by the said feuars and proprietors of lands and tenements in and about Falkirk, and to their successors in office for ever, all right and interest he had in the customs presently payable or exigible by him in the town of Falkirk, for the common good of the town.

Since the date of this decree, the feuars of Falkirk have held meetings as a separate body. They elect a preses, treasurer, and clerk, and keep a record of their proceedings. Their sederunt-book and cash-book were exhibited.

The committee of feuars let the customs and the common muir, which produce about £70 per annum, and out of the rents they pay a certain sum to the stent-masters to assist in lighting the town. The balance goes to liquidate a debt incurred in building the town's steeple, of which about £100 remains unpaid.

POPULATION.

The Population of the town and parish (which embraces a large and populous landward district), by the census 1831, is 12,743.

The town is thriving and increasing in trade and population. It is situate in a wealthy and densely-peopled district, in the midst of collieries and manufactories, and close to the Forth and Clyde canal, and the port of Grangemouth, which connects the canal with the Firth of Forth. It has an extensive inland trade, and is the chief town of the eastern part of Stirlingshire.

The inhabitants state their great grievance to be the want of a judicial establishment for the town and district; and urge strongly their claim to have a sheriff-substitute resident in Falkirk. It was remarked, that a municipal establishment for the town would not meet the evil complained of, as the town possessed no funds, independent of an assessment on the inhabitants, and could not therefore sustain the expense of judicial officers, and of a court-house and gaol. The inhabitants supported their claim also on consideration of the importance and wealth of the eastern district of the county, and the general benefit which that district as well as the town would derive from a resident Judge Ordinary. It appears that in 1822 the Commissioners on the courts of justice in Scotland recommended the appointment of a resident sheriff-substitute at Falkirk as a proper remedy for a grievance long complained of. *

See 11th Report on Burgh Courts.

PROPERTY.

The Property of the town consists of its water-works and wells; of a piece of land called the Washing Green; of Callander Riggs, extending to about an acre, on which the markets are held; of the customs of the town, formerly levied by the superior; and of the town's steeple, with a shop under it.

DEBTS.

The Debts of the town amount to about £1,700, borrowed on bills granted by the preses and treasurer of the stent-masters. This debt has been contracted principally on account of the town's water-works and the steeple, to erecting which the feuars contributed £500. There is besides a small sum due by the town upon open accounts.

REVENUE.

The Revenue arises chiefly from an assessment collected from the inhabiants under the name of stent, or water money, amounting to about £200 per annum. The town draws besides £14 per annum for the shop under the steeple.

EXPENDITURE.

The annual Expenditure of the town is estimated at,

	£.	s.	d.	
Salaries—Collector - - - - -	14	0	0	
Clock-keeper - - - - -	4	0	0	
Bell-ringer - - - - - -	4	0	0	
Clerks - - - - - -	2	2	0	
Carried forward -				£24 2 0

* Since the town was visited, a sheriff-substitute has been appointed to reside at Falkirk.

Brought forward - -	£24	2	0
Light—Gas (besides a sum of £30 from feuars' funds) -	30	0	0
Interest, about - - - - - - - - - -	70	0	0
Water—repairs on water-works about - - - -	50	0	0
Total - -	£174	2	0

TAXATION. The only direct Tax levied on the town is the Stent or water money. It is laid on by the stent-masters, and paid to a collector appointed by them.

Stent. This tax has been levied beyond memory. The amount has occasionally varied; but for nearly twenty years it has been about £200.

It is not assessed upon the rental, but imposed at the discretion of the stent-masters, according to the supposed ability to pay, and the quantity of water made use of. The amount to each individual is from 1*s.* 6*d.* to £3. It is paid in respect of occupation, and is not paid by the landlord as such. The only exemption from stent is inability to pay.

Customs. The petty Customs of the burgh are let annually along with the market ground at a rent of about £40. The table of customs is dated 24th June 1791. The rent is drawn by the committee of feuars, to whom, as already mentioned, the right to the customs was conveyed by the superior when the commonty was divided. Out of the rent of the customs, the committee of feuars pay at present £30 per annum to the stent-masters to assist in lighting the town.

BOUNDARIES. The powers of the stent-masters extend over the regality, which includes some arable land, but excludes the suburbs of Grahamston, Bainsford, &c., which are comprehended within the parliamentary boundary.

The stent has never been levied in these suburbs; but this has not proceeded, it is said, from any opposition being apprehended to its payment, but because the inhabitants have not the benefit of the water, on which account it is chiefly levied.

JURISDICTION. There is no burgh Jurisdiction of any sort exercised in this town. Justice of peace courts for the district are held in the town once a-month.

PATRONAGE. The only Patronage is in the stent-masters, who appoint the officers, whose salaries appear under Article I.

The patronage of the church and parish of Falkirk is in his Majesty.

The schools are all private except the parish one, the master of which is appointed by the heritors.

EXCLUSIVE PRIVILEGES. There is no corporation or persons now possessed of Exclusive Privileges in the town.

During the existence of the regality powers in the family of Livingstone, burgesses were created, and corporations of craftsmen erected. The burgesses were admitted by the superior himself, who subscribed the burgess ticket. The corporations appear to have had charters from the superior, one of which to the hammermen, dated 1st July 1689, is still extant, granting them exclusive privileges, and giving power to choose a deacon and box-master.

These privileges are now obsolete, and the only remnant of the privileges of the corporations is their voice, as separate bodies, in choosing the stent-masters.

NEW CONSTITUTION. By the late Act 3 and 4 William IV. c. 77, the town of Falkirk has obtained a municipal constitution. The council consists of twelve, viz. a provost, three bailies, treasurer, and seven councillors.

POLICE. There is no local statute providing for the Police of the town, and it has not yet thought fit to take advantage of the General Police Act lately passed. There is a police constable appointed by the sheriff of the county, and the procurator-fiscal for the Eastern district of Stirlingshire resides in Falkirk. On any emergency the inhabitants watch the town, under he name of the town guard. There is no gaol in the town, and the nearest one is Stirling, which is eleven miles off.

The cleaning of the town is paid for out of the stent, in so far as the street dung does not meet the expenses, which it nearly does.

The lighting is paid one-half out of the stent, and one-half out of the feuars' funds.

The paving is at the expense of the trustees on the high roads. The supply of water is at the expense of the stent funds.

DOCUMENTS. The following Documents accompany this Report:—

1. Answers to Heads of Inquiry issued by the Commissioners, October 1833.
2. Declaration of Robert Smith, Esq. and others, 6th November 1833.
3. Extract of the Treasurer of the Stent-masters' Account from the Town's Cash Book from 1832 to 1833.
4. Table of the Customs of Falkirk.

R. HANDYSIDE.

REPORT

ON

THE BURGH OF FALKLAND,

(FIFESHIRE.)

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FALKLAND.

History and Charters.

FALKLAND is a royal burgh, situated in the county of Fife. Wishing, it is believed, to avoid expense, it had not exercised the privilege of sending a Member to Parliament for a considerable time before the Union of England and Scotland, and was, in consequence, not included in the classes of burghs then formed to send jointly Representatives to the British Parliament.

Since the date of 1 and 2 William IV. parties qualified in terms of it, resident within the burgh, have voted in the election of a Representative in Parliament for the county of Fife.

James II., by a charter dated at Perth, 13th July 1459, conveyed to a great number of persons, each individually, certain portions of land called tofts and crofts, in the then village of Falkland. The following is a copy of the first of the individual grants contained in this charter, and the whole are conceived in similar terms: "James, by the grace of God, King of Scots, to all good men of his whole land, clergy and laity, greeting: Wit ye me to have given, granted, alienated, and let in feu-farm, and by this present charter confirm to our beloved John Bowman, all and whole that toft and croft which the said John has, lying in our burgh of Falkland, on the south part of said burgh, between the tenement of James Patrick on the north parts, and the land of Ada Richard on the south, and an eighth part of the husband-land of the town of Falkland which he has now of us in lease. The said John and his heirs having and holding the said toft," &c., "of us, our heirs and successors, Kings of Scotland, in feu-farm and heritage for ever, with common pasturage on the Lomonds of Falkland, according to use and wont, as it tends to the said lands, toft and croft, in free burgage,"—"returning and paying out of the said lands, yearly, to us, our heirs, and our successors, Kings of Scotland, the sum of fifty shillings usual money of our kingdom, to be paid yearly, at two terms of the year, usually, viz. Whitsunday and Martinmas in winter, by equal portions, with firm burgals and other burdens and services, looking to burgage only, whereby they hold their right. The said John and his heirs respectively, so often as there shall be necessity, are to receive and entertain twenty-four persons, and as many horses, for money, in meat and drink, and fodder for horses, as in other necessaries for the persons and horses: the necessary service is to be at the cost and expense of the persons themselves."

Productions, No. 4.

James VI. granted a charter to the inhabitants and burgh of Falkland, at Edinburgh, the 25th day of May 1595, which, after renewing the grants of their tofts and crofts, and other possessions, to the individual burgesses, conveyed to the burgh, "its bailies, councillors, free burgesses, and inhabitants, and their successors in property and heritage, all and each of the foresaid houses, edifices, tenements, waste ground, gardens, lands, acres, tofts, and crofts," with the annual return and duties belonging formerly to the altar of St. Ninian, in the parish church of Kilgour, with power to the burgesses and freemen of the burgh to elect bailies, councillors, and other burgh officers, from amongst the inhabitants only, and to change or continue them yearly as should seem expedient. Upon the bailies it conferred the power of constituting and holding courts "Acta leges et statuta infra predictum burgum et libertatem eiusdem pro observatione boni ordinis pro eodem faciendi et ordinandi ac omnes transgressores attachiandi, arrestandi, incarcerandi, et impuniendi, decollandi, pendendi, submergendi et in auxilio mittendi secundum leges regni nostri ad edificandi et tenendi pretoriam et crucem foralem infra predictum burgum burges et inhabitatores infra predictum burgum et libertatem eiusdem coram quocunque judice vel quibuscunque judicibus spiritualibus vel temporalibus infra regnum nostrum restati seu attechiati fuerint ad libertatem et privilegium dicti burgi et curiarum eiusdem replegiandi reducendi et reportandi cautionem de colerath pro justitia partibus infra juris terminum comparentibus administa prestandi et inveniendi." This charter also empowered "dictis burgensibus et liberis dicti burgi ad lie pak peill et infra dictum burgum et libertatem eiusdem emendi et vendendi vinum ceram panneum, laneum et lineum latum et strictum, ac omnes alias mercantias et stapule bona; ac etiam cum potestate balliuis et consulibus dicti burgi eorumque successoribus infra predictum burgum habendi admittendi et recipiendi pistores, brasiatores, carnifices, piscium venditores, allutarios scissores, fullones, textores fabros, carpentarios, laneos, calcearios et omnes alios artifices necessarios ad liberi burgi libertatem spectan.—Reddendo inde annuatim predicte persone particulariter supranominate ac unaquaque earum pro earum propriis partibus respective eorumque heredes et assignati ballivis et consulibus dicti burgi de Falkland eorumque thesauraris eorum nomine qui pro tempore fuerit feudifirme firmas, firmas burgales, ac aliis devoriis particulariter suprarecitatis in antiquis rentalibus, assedationibus et infeofamentis ab antiquo concess: de predictis terris toftis ac aliis supra specificatis eorum predicessores particulariter supra nominatis contentas nec non recipiendo in hostilagio pro earum propriis partibus particulariter plenum et integrum munerum personarum et equorum in dictis antiquis rentalibus et infeofamentis contentis ac pro ministratione ipsis in esculentis poculentis pabulis equorum at aliis necessariis ipsarum personarum sumptibus et expenssis secundum formam et tenorem dict. Antiquorum infeofamentorum et rentalium in omnibus punctis. Et similiter dicti ballivi consulesque prefati nostri burgi eorumque successores presentes et qui pro tempore fuerint soluendo inde annuatim nobis

FALKLAND.

nostrisque successoribus in nostro scaccario summam viginti quinque librarum et novem decem solidorum usualis monete regni nostri que est integra antiqua feudifirma inuicem computatum in antiquis infeofamentis et rentalibus content. per nos et predicessores nostros predictis antiquis tenentibus feudifirmariis et rentellariis predictarum terrarum acrarum toftarum croftarum particulariter supra specificat eorumque predicessoribus perprius factis concessis et locatis et etiam summam quatuor librarum et duodecem denariorum annuatim in augmentationem dicti nostri anti rentalis, extenden. in integro ad summam triginta librarum monete predict. ad duos anni terminos consuetos festa, viz., Pentecostes et Sancti Martini in hieme, per equales portiones.

POPULATION. The Population of the burgh amounts to 1,400.

The number of persons resident within the burgh, whose rents amount to £5, but are under £10, is 67.

The number of persons whose rents amount to £10 and upwards is 35.

The number of burgesses at present is 59, of whom 15 are non-resident.

PROPERTY. The Property of the burgh consists of lands, town-house, and the superiority of a mill and mill-lands. Within the last forty years, the magistrates and council have alienated heritable property, for which they have received £2,300 2*s*.

The debt due to the burgh at Michaelmas 1832 was £56 10*s*. 11½*d*.

REVENUE. The Revenue of the burgh at Michaelmas 1832 was,

	£.	s.	d.
land rent	3	17	6
Feu duties, large	25	5	6
Ditto, small	0	7	2
Customs	37	15	0
	67	5	2

EXPENDITURE. The Expenditure of the burgh for the year ending at Michaelmas 1832 was,

	£.	s.	d.
Salaries,—			
Treasurer	2	0	0
Officers	6	13	7
Schoolmaster	3	6	8
Aequæ to the exchequer 1*d*., dues 14*s*., carriage 2*d*.	0	14	3
Annual repair of wells, town-house, and streets, upon an average of seven years	6	0	0
Feu-duties	0	2	2¾
Interest upon £446, due by the burgh, at 4½ per cent.	20	1	4½
	38	18	1¼
Excess of income over expenditure	28	7	0¾

DEBT. The Debt due by the burgh is £446.

ADMINISTRATION. The affairs of the burgh are Administered by a council of 18, including three bailies. Prior to the passing of the statute 3 and 4 William IV., the two senior councillors went out annually, and their places were filled up from amongst the burgesses by the remaining 13 councillors and three bailies. The three bailies were elected by the council annually, and might be re-elected for any length of time. No person indebted to the burgh can be a magistrate or member of council.

TAXATION. There are no Taxes levied within the burgh, except customs, which are levied almost wholly from cattle and horses exposed for sale in the public markets. They are collected by a tacksman, to whom they are let for three years. Their produce is included in the revenue above stated. Burgesses are exempted from payment of custom.

JURISDICTION. The Jurisdiction of the magistrates extends over the whole burgh, and territory of the burgh about 200 acres.

The magistrates possess the usual jurisdiction of magistrates of royal burghs. The civil cases brought before them do not exceed four in a year. The criminal prosecutions brought before them amount to about eight or ten yearly, and are chiefly for petty riots.

The town-clerk acts as assessor to the magistrates. He derives no emoluments from his office but the fees of infeftments within burgh.

PATRONAGE. The magistrates and council have no Patronage but of the burgh officer, town-clerk, gaoler, bellman, town-crier, treasurer, fiscal, and two searchers of weights and measures.

EXCLUSIVE PRIVILEGE. There is no guildry, and there are no incorporated crafts in the burgh.

The magistrates are not in the use of requiring persons carrying on trade to enter burgesses. The fees of entry for burgesses are, for a stranger 10*s*., for those related to burgesses 5*s*.

ELECTION OF MAGISTRATES AND COUNCIL. The number of councillors in this burgh, which is 18, is too great. They are now elected in terms of the 3 and 4 William IV.

POLICE. The Police of the burgh is maintained by the magistrates. Water was brought into the town at the expense of the community in 1781.

DOCUMENTS. The following Documents accompany this Report:—

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Copy Sett of the Burgh.
3. Table of Customs.
4. Excerpt from Charter by James VI. in favour of the burgh, 1595.

JAMES CAMPBELL.

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REPORT

ON

THE BURGH OF FORFAR,

(FORFARSHIRE.)

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FORFAR.

A NOTARIAL copy of a Charter of Confirmation granted by King Charles II. to the town of Forfar, dated 9th May 1665, will be found amongst the Returns made to Parliament in 1793. Report Committee House of Commons, Appendix A. 1793.

The Population of this burgh, by the census of 1831, amounted to 6,899, exclusive of the landward part of the parish. POPULATION.

The population of the whole parish was,

In 1801	5,165
1811	5,652
1821	5,897
1831	7,949

The number of persons resident within the proper bounds of the burgh, whose rents in property or tenantry amount to £10 and upwards, is 150. There are 331 whose rents amount to £5 and upwards, but are under £10, and of these about 130 are burgesses. Between the royalty boundary and the parliamentary boundary there are eight persons whose rents amount to £5, and are under £10.

The heritable Property of the town consists of feu duties, lands and houses, quarries, teinds, and patronage of the parish church, seats in the church, and the public buildings of the burgh. The moveable property consists of debts due to them. The revenue consists of the annual income arising from these sources, besides dues upon the entry of burgesses, the customs of fairs, petty customs, shamble dues, multure on malt, and the rent of street manure. PROPERTY.

The gross value of the property of the town was estimated, as at Michaelmas 1832, at £18,867 15*s.* $7\frac{6}{12}$*d.*

REVENUE AND EXPENDITURE.

	£.	*s.*	*d.*
The gross Revenue for the same year was	1,616	1	$6\frac{7}{12}$
And the whole Expenditure	2,193	13	4
Making an excess of expenditure of	577	11	$9\frac{5}{12}$

In classing the year's income and expenditure under the heads *Ordinary* and *Casual*, the following apportionment was made, on the authority of the depute town clerk and town treasurer:

	£.	*s.*	*d.*		£.	*s.*	*d.*
Ordinary revenue	1,281	19	$11\frac{7}{12}$	Ordinary expenditure	776	16	0
Casual ditto	334	1	7	Casual ditto	1,416	17	4

From this statement it would appear that the ordinary and necessary expenses of the burgh can easily be paid out of the ordinary revenue, and that the great bulk of the excess of expenditure this year comes under the head of casual expenditure, as to the details of which the Commissioners thought it their duty to make some inquiry.

In tracing back the income and expenditure of this burgh, it appears, from the accounts laid before the House of Commons, that from the year ending Michaelmas 1827 to that ending Michaelmas 1831,

	£.	*s.*	*d.*
The average revenue was	1,715	5	$9\frac{7}{12}$
And that the average expenditure was	1,625	9	$1\frac{7}{12}$
Leaving an average surplus of	89	16	8

And in no one of the five years did the gross expenditure exceed the gross revenue. These accounts afford *primâ facie* evidence of good and prudent management, inasmuch as the operations under the head of *Casual Expenditure* seem to have been regulated by the amount of revenue, ordinary and casual. During the first four of these years, under the head of "Debts," the return is, "None, except for current works." In the accounts to Michaelmas 1831, under the head of "Debts," there is reported, "Due to the Bank, £803 10*s.*" At Michaelmas 1832, the debt was increased to £2,753, according to the declaration of the town clerk, herewith produced.

The debt of the burgh, then, seems to be of very recent creation, and to be wholly ascribable to public improvements, undertaken within these few years. It was stated to the Commissioners that £584 had been expended in the erection of a manse; that considerable improvements had been made, and were still going on, in levelling and paving the streets, and in the purchase of properties which encroached upon them; that the town had bought some portions of land which lay contiguous to the burgh property, and had expended money in planting and preserving the plantations on their lands; and that they had made a loan to a neighbouring turnpike road of £500.

The Commissioners have the authority of a public officer of experience in the town for saying, that the ordinary expenditure of this town may be limited to a sum considerably under the average expenditure. He considers, "That the ordinary average expenses of the town, Mr. Hunter, p. 2.

FORFAR.

including public burdens, town officers, teachers, lighting, cleaning, and paving, and minister's stipend, should be - - - - - - - - - - - £515 11 9

"And that the interest of debt, at 4½ per cent. on its present amount, would require - - - - - - - - - - - 123 17 8

"Making a total of - - - - - - - - - - £639 9 5"

a sum so much within the ordinary revenue, as to present a very favourable view of the present finances of the town, and which would leave a large surplus fund for improvements.

There appear to have been no alienations of the burgh property within the last 40 years. Some new feus have been granted, but none of them within the last 20 years, except by public roup. The town has bought property, but never sold any, it is believed, within the last 100 years.

Mr. Lowson, treasurer, and others.

An apprehension was expressed, on the part of some of the existing office-bearers of the town's affairs, that future magistracies, in courting popularity, might be apt to spend more than the income of the year; but no regulations or provisions were suggested, by which the administration of the funds might for the future be more effectually guarded and controlled. In their opinion, the present mode of management, of placing the funds and making the payments through the hands of a different treasurer every year, is attended with the most beneficial effects; and to this system they are disposed to attribute the small arrears, and the general clearness of accounts, which, they think, distinguishes the management at Forfar.

Mr. Hunter, p. 5.

"The mode of accounting between the burgh of Forfar and their treasurer is very simple. As soon after the election as he has lodged his bond of caution, he receives the balance due by the last treasurer, and an account of the revenue and arrears is put into his hands. When any payments are to be made, if the amount is below £5, he receives an order from the magistrates; if the sum to be paid be above £5, he receives an order from the magistrates and council to make payment; and at the end of the year he gives in his accounts, with the orders he had received as his vouchers, to the town clerk, to be made up and audited. They are then remitted to a committee of council for that purpose, who examine them, and report to the council; and if they are found correct, the treasurer is discharged." These gentlemen do not consider it any improvement at all to allow the treasurer to remain in office longer than one year. At Forfar, by past practice, the treasurer was never re-elected; and the understanding was, that the office of treasurer went over the ordinary members of the council in rotation.

TAXATION.

The magistrates and council exercise no power of levying Taxes, except the customs and market dues, already noticed as part of the income of the town.

These consist of,

1st. The petty customs on articles exposed within the burgh by unfreemen. 2nd. The customs of a weekly market, and of four annual fairs, which are granted by the charter of King Charles II., dated 9th May 1665. 3rd. There are also the tolls and customs of St. James's fair, (held originally for eight days, and now reduced to three,) at Forfar, in the month of August, yearly. By decreet of the Court of Session, 18th July 1676, it was declared that the office of heritable constable of the castle and burgh of Forfar belonged formerly to Lord Gray, and then to the Earl of Kinghorn, (who afterwards took the title of Lord Strathmore,) and that, as constable, his lordship had right to exercise jurisdiction, and levy the tolls and customs of this fair. The magistrates and council purchased this right, 28th July 1779, from Lord Strathmore, for 300 guineas. 4th. By the charter of Charles II. the burgh is granted to the community thereof *cum molendinis et multuris*, and by the usage following on this charter, the inhabitants of the royalty are astricted to the town's mills for all malt they may have occasion to grind. Usage has fixed the multure at the 25th boll to the millmaster, and one-fourth more to the knave. All these tolls and customs have been fixed by usage; the rates are printed in tables, set down and corrected from former tables by the magistrates and council in 1779, and explained by subsequent acts of council in 1782, 1786, 1790, and 1823. In the five years preceding Michaelmas 1831, the average annual produce, including the shamble dues and street manure, amounted to about £170, and the receipt and application of the whole is accounted for in the annual accounts as part of the common good of the burgh.

The amount of cess levied annually within the last ten years varies from £40 1*s.* 5*d.* to £57 10*s.* 4*d.*, and the sum annually remitted to Exchequer is £42 18*s.* The difference is the expense of assessing and collecting, including occasional bad debts.

None of the inhabitants of the town have any exemption from payment of cess.

JURISDICTION.

The Jurisdiction of the magistrates extends over the whole royalty of the burgh, which is about two miles and a half in length, and half a mile broad; and it also extends over the liberty lands contained in the charter granted to the town by Charles II.

The only court held in the burgh is the Bailie Court, in which it is competent to bring civil causes of a personal nature, to any amount. The charter of Charles II. gives power "to punish transgressors by hanging, heading, drowning, and banishing." In practice, the criminal jurisdiction of the court has been confined to precognitions preparatory to trial for offences committed within the royalty, and the trial of petty offences; but the expense of such actions, which was always considerable, in consequence of being conducted in written pleadings and written depositions, has been so much increased by the enactments of the Act of Adjournal in 1827, that they are seldom resorted to, much to the injury of the peace of the town.

The following table of the causes brought into the Bailie Court during the last 14 years was furnished to the Commissioners by the depute town clerk.

Number of civil causes brought into court annually, since the beginning of 1820:—

1820	31
1821	32
1822	29
1823	12
1824	15
1825	27
1826	44
1827	32
1828	34
1829	42
1830	45
1831	24
1832	43

Number of criminal cases brought into court annually since the beginning of 1820:—

Years.	Written Petition and Precognition.	Trial.
1820	2	1
1821	7	0
1822	5	1
1823	0	0
1824	4	4
1825	4	2
1826	2	1
1827	9	3
1828	5	2
1829	4	4
1830	0	0
1831	2	1
1832	11	4

Exclusive of petty cases dismissed after verbal hearings.

The magistrates, while sitting in judgment, are assisted by an assessor, who is the town clerk. The present town clerk is incapable of acting. He was appointed in 1803, when a minor, conjunct clerk with the late town clerk, Mr. Walker, and his appointment is *ad vitam aut culpam*. He has never acted as town clerk, and a deputy was appointed to act for him by the magistrates and council, who held his appointment at first from year to year, but he has lately been appointed for five years, and thereafter during pleasure. The town clerk is paid by fees only, and the principal clerk, who never acted, and cannot act, draws at present three-fourths of the whole proper fees of the office, leaving only one-fourth to the deputy, who discharges the whole of its duties. The magistrates are bound to make up his whole emolument to a sum equal to one-half of the whole proper fees of the office.

An opinion was expressed by some persons of experience in the town's affairs, that some defect existed in the administration of justice in this burgh, from the want of a sufficiently distinct power upon the part of the magistrates to punish for petty offences. They are now in the habit of apprehending persons, *brevi manu*, for rioting, particularly on the Saturday or Sunday nights. In these cases they generally imprison them for a night. Many people bring civil actions into the burgh court in preference to the sheriff court, in order to get the benefit of an Act of warding, and the same individuals expressed their belief that the administration of justice in the burgh court would be much improved if a person educated to the profession of the law were to act as Judge there, instead of the bailies and their assessor; but that this could only take place in large towns, and in such a town as Forfar there would be no means of defraying the expense.

PATRONAGE.

The magistrates and council have no civil Patronage, except the municipal officers, who are elected by them generally, and are paid by salaries, except the town clerk, who, as already mentioned, is paid by fees. None of them, except at present the town clerk, do their duty by deputy. None of the officers of the burgh find security, except the treasurer, who gives security for the whole of his intromissions, and who is elected annually, and must go out at the end of the year.

The magistrates have the patronage of the church of Forfar, which they bought from George Fletcher, of Restennet, in 1652. The patronage is exercised by the whole body of the town council, who at the last election of a minister, in 1818, were indirectly influenced in their choice by the public opinion as to the individual who had most merit. The council was nearly broken up, from difference of opinion, before the matter was settled; but at last they signed the presentation unanimously. The stipend of the minister is 18 chalders, half barley, half meal. It is paid out of the teinds of the parish. The inhabitants of the burgh pay no part of it; the burgh pays its proportion as an heritor in the parish.

The magistrates and council have no exclusive management or control over any hospital or school, or any other establishment for the purpose of education or charity, except as regards the appointment of the two masters in the grammar school, and they have a vote in the election of the master of the parish school, along with the other heritors of the parish. One of the masters of the grammar school has no salary, as he is also session clerk, and derives part of his emolument from that situation. The other master has a salary of £30. There are no particular regulations for the government of the school. The fees are the same

FORFAR.

in both the schools, and are very moderate. They have not been raised or lowered within the last ten years.

EXCLUSIVE PRIVILEGE.

There are no guild brethren nor guildry incorporation in this town. There is a corporation or company of merchants, established under a warrant or seal of cause from the magistrates in 1653, but they have no Exclusive Privileges, and no right to compel persons to enter with the corporation. Their seal of cause empowers them to "search and try all light and false weights and measures."

The total number of burgesses it is difficult to ascertain. Within the forty years preceding Michaelmas 1831, 942 have entered, but this includes many honorary burgesses. The fees of admission exacted on the entry of burgesses vary according to the claimant's title.

1. By birth, marriage, or apprentice - - -	£1	0	0
2. By purchase as a stranger - - - -	2	0	0

Besides clerk and officer's fees, and stamp duty. The fees are paid to the town treasurer, and accounted for as part of the common good. The burgesses, by virtue of the charter of Charles II., already quoted, claim the exclusive privilege "of buying and selling within the said burgh and liberties thereof, wine, wax, cloth, linen, wool, and all other merchandize and staple goods." The burgesses have no peculiar funds, nor do they meet as a body to exercise any functions. They are considered as represented by the magistrates and town council of the burgh, and their only fund is the common good, which is under the management of the town council.

The number of members in each of the corporations in this burgh, which elected members of council at Michaelmas 1831, stood as follows:

Glovers - - -	56
Shoemakers - -	60
Tailors - - -	23
Weavers - - -	82
	221

Another corporation of craftsmen was erected by seal of cause from the town council, dated 19th October 1743, but it did not choose a member of council. This was the corporation of hammermen, including wrights, smiths, and coopers. It contains 52 members.

All these corporations claim the privilege of exercising their respective crafts within the burgh and its liberties, to the exclusion of all other artisans of the same calling, with the exception of the weavers' corporation, which was thrown open by an Act of the British Parliament for improving the linen trade.

The fees exacted by these incorporations on entry are as under:

	£.	s.	d.
1. Glovers.—For a stranger - - - - - - -	3	15	0
A freeman's son or son-in-law - - -	1	10	0
A freeman's apprentice not regulated.			
2. Shoemakers.—Stranger - - - - - -	19	0	0
Freeman's son or son-in-law - - -	2	18	10
Freeman's apprentice, at indenting - -	1	10	0
„ at entering master	13	0	0
3. Tailors.—Stranger - - - - - - - -	15	10	0
Freeman's son or son-in-law - - - -	2	10	0
„ apprentice, at indenting - -	0	10	0
„ „ at entering master -	13	10	0
4. Weavers exact from a stranger - - - - -	2	10	0
a freeman's son or son-in-law -	1	0	0
„ apprentice, entering master	1	10	0
5. Hammermen.—Stranger - - - - - -	10	0	0
Freeman's son - - -	5	0	0
„ son-in-law - - - -	10	0	0
„ apprentice not regulated.			

No sums are levied annually from members of these incorporations. The magistrates and corporations are not in the habit of granting temporary licences to unfreemen. None of the corporations have a right to present, or of being presented, to schools or hospitals; and none of the burgesses derive individually any advantage from the common good of the town. The corporation of shoemakers is the only one in Forfar possessed of property to any amount. They possess an annual revenue of about £100, and they expend £80 of that in giving allowances to decayed and sick members.

In examining as to the value put upon these exclusive privileges by the corporations themselves, the Commissioners came to the opinion that they were generally considered in this burgh as an evil, and that the corporations would willingly give them up. The deacon of the shoemakers declared "That he does not count it now a very important privilege, as it is broke through on a small scale every day, and they (the corporations) do not think it worth while to stick up very hard for the privilege. That many of the members of the corporation of shoemakers do not consider it a very valuable privilege is shown from this circumstance, that there is at this moment a motion lying on their table, to be discussed at the end of three months from its date, whether the corporation shall of their own accord throw open the exclusive privilege or not. He had no objection to state his own opinion to be much in favour of throwing open the privilege generally; and that some of those whose interests would

Mr. Alexander Milne, p. 10.

FORFAR.

appear to him most likely to be affected by it, are likewise agreeable to have them thrown open." The deacon of the tailors declared, "That he did not consider the exclusive privilege of working within burgh of any value; and in his mind it would be no loss if they were thrown open." The deacon of the glovers stated, "That his incorporation did not enforce any claim to the exclusive privilege of pursuing their art within burgh; that with regard to those claimed by some of the other incorporations, he really did not know the use of them, and thought they would be much better without them." The deacon of the weavers said, "That his incorporation had no exclusive privileges; and he did not see there was any use of possessing them. His opinion is, that it would be much for the benefit of the town if they were broken up generally in the other incorporations; and, in his belief, that was likely to happen with various of them very soon."

Mr. G. Ormond, p. 11.

Mr. J. Clerk, p. 12.

Mr. J. Craig, p. 11.

ELECTION OF MAGISTRATES AND COUNCIL.

There has been no change in the Sett of the burgh since 1707. The Town Council of Forfar consists of nineteen members, viz.:

1 Provost,
2 Bailies,
1 Treasurer,
11 Councillors, and
4 Deacons of Crafts.

The provost, two bailies, and treasurer, and eleven councillors, were, previous to the Burgh Reform Act, elected by the town council itself. One of each of the four deacons was chosen (without leets or any control from the town council) by each of the four incorporations of glovers, shoemakers, tailors, and weavers.

The Commissioners have found it the decided opinion of persons practically acquainted with the administration of the affairs of the town, that the town council is far too numerous to be efficient. From nine to twelve councillors were suggested as the number which would be quite competent to the whole management. Of these there should be a provost, two bailies, and a treasurer, as at present. There is no dean of guild at present, and there seems to be no use for one.

Evidence, p. 9.

POLICE.

There is no separate establishment for lighting, cleaning, watching, or paving. The expense of these matters is defrayed out of the common good of the town. The inhabitants subscribe to sink wells, and are generally allowed a small subscription from the town to aid their object.

The Commissioners visited the gaol here, and found it ill ventilated and ill lighted, and deficient both in space and in those modern improvements which are so conducive to the cleanliness and healthiness of the unfortunate inmates of a prison. A commodious court is connected with it, which probably was intended, and certainly might be used, as an airing ground; but the magistrates here entertain some doubt as to their authority for appropriating it to this benevolent purpose.

DOCUMENTS

The following Documents accompany this Report:

1. Examinations relative to the Burgh of Forfar, 23rd September 1833.
2. List of Civil and Criminal Causes brought before the Bailie Court of Forfar from 1820 to 1832.

ROBERT GRAHAM.

REPORT

ON

THE BURGH OF FORRES,

(MORAYSHIRE.)

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FORRES.

THE more ancient charters and writs of the burgh of Forres were lost or destroyed before the end of the 15th century. There is, however, evidence from various sources, that it had obtained the privileges of a royal burgh as early as the reign of William the Lion or Alexander II. Chart of Moray. Charters in Advoc. Libr., &c.

The Charter granted by Robert I. to his nephew Thomas Ranulph, of the earldom of Moray, declared, that this burgh, as well as Elgin and Invernairn, should hold of the earl, but in other respects should enjoy their old liberties.

In the reign of James IV. Forres obtained a charter of new infeftment, the narrative of which sets forth, that the old charters of the burgh, "per guerrarum insultus, incendia, et aliusmodi distructe, combuste, et adnullate extiterunt." That charter grants to the community the privileges of a free burgh "cum minutis seu parvis custumis dicti burgi, ac cum omnibus aliis et singulis terris, annuis redditibus .... per nos aut quoscumque predecessores nostros dicto nostro burgo .... temporibus retroactis datis;" and then confirms especially .. "terras nuncupatas le grefschip .... le bailzeland, le mekil bog cum prato regio alias King's Meadow, Lowraniston, cum le Crathies, et Ramflat .... cum communi pastura infra forestas de Drumynde et Tulloch .... necnon aquam et piscaturam de Findern a Dunduff usque ad le bank de Findern tam in aqua dulci quam salsa, cum omnibus piscibus et piscationibus, musculis, et le mussill skawpis, ac omnibus aliis piscationibus, possessionibus, et libertatibus que dicto nostro burgo et libertati ejusdem ab antiquo pertinebant .... cum potestate aldermannum, ballivos, aliosque officiarios pro gubernatione dicti nostri burgi necessarios, de burgensibus ejusdem annuatim eligendi. Fecimusque constituimus et ordinamus, et tenore presentis carte nostre facimus et constituimus, dictum aldermannum et ballivos qui pro tempore fuerint vicecomites infra dictum nostrum burgum, bondas et libertates ejusdem, cum potestate officii vicecomitis in omnibus eidem spectantibus, et sicut aliqui officiarii consimilia officia habent infra aliquem burgum regni nostri: Exoneravimus etiam et per presentes exoneramus vicecomites nostros de Elgin et Forres presentes et futuros, et suos deputatos, de omni exercitatione officii sui infra dictum nostrum burgum, bondasque et libertates ejusdem imperpetuum." The charter finally grants the privilege of a weekly market and yearly fair, with their dues and customs. 1496. 20 Junii. Mag. Sig. lib. 13. No. 222.

The ratification by parliament, in 1607, of the charters of the earldom of Moray, in favour of James Earl of Moray, particularly excepts the burgh mails of Elgin and Forres, which had previously been claimed by the earls, thenceforth to remain with the Crown. Act. Parl., vol. iv. p. 380.

CONSTITUTION.

The town council is composed of 17 members. Previous to the Burgh Reform Act, there was no provision against the reappointment of the council and magistrates, and, in practice, they were frequently continued for many years in office.

There are 192 persons resident within the royalty, and seven resident beyond the royalty, but within the parliamentary boundaries, having rents in property or tenancy of £10 or upwards, of whom 12 are burgesses.

There are 105 persons resident within the royalty, and eight persons without the royalty, but within the parliamentary boundaries, having rents in property or tenancy of £5 and upwards, and under £10, and of these only three are burgesses. In both these enumerations females are included.

PROPERTY.

Forres is still possessed of considerable Property, although it had alienated, at an early period, and for trifling feu-duties, property in lands and fishings, which have of late become of very great value.

REVENUE.

The annual Revenue of the burgh arises from the following sources, viz.:—

	£.	s.	d.
Land rents	388	9	9
Feu-duties	59	6	2
Seats in the church	20	5	0
Petty customs and market-dues	42	0	0
Booths in the shambles	6	0	0
Sales of wood annually thinned	42	8	4
Dividends, as capital advanced for public works	23	9	9
Entry of burgesses	20	0	0
	£601	19	0
Together with small sums derived from exhibitions in the market-green; fines; entries of vassals; town drum and weighing-machine; the rent of a quarry, and the proportion of schoolmaster's salary received from the landward heritors; altogether averaging	18	0	9
	£619	19	9

FORRES.

EXPENDITURE.

The annual *fixed* Expenditure of the burgh falls under the heads of	£.	s.	d.
Salaries to the teacher of boys' and girls' schools	120	7	0
Salaries to officers of the burgh	88	3	10
Public and parish burdens	59	13	1
Interest of money mortified for the poor	12	11	7
Miscellaneous but fixed expenses	4	6	3
Total of fixed expenditure	£285	1	9
Incidental expenditure under the heads of improvements in the town, stated as for one year at	132	10	1
Charities and subscriptions	10	6	0
Miscellaneous, (which head includes heavy accounts for law expenses; a charge of £45 13*s.* 8*d.* for advertising markets, schools, &c.; school prizes; annual dinners given to schoolmaster and presbytery at examination of schools; extra allowance to officers and constables during cholera; a few gratuities and charities)	98	1	0
Total of incidental expenditure	£240	17	1

DEBTS.

The whole sum due by the burgh is £941 10*s.* 4*d.*, in which it is proper to remark a charge of £92 11*s.* 5*d.* for accounts due to Edinburgh law agents, and £12 4*s.* 8*d.* for chaise hires for the magistrates on public occasions, and a school dinner.

These Debts due by the burgh are nominally nearly compensated by the amount of debts for which it has claims, but the latter are in many instances doubtful, and in some certainly irrecoverable.

A large part, however, consisting of £542 12*s.* 3*d.* advanced for public roads, and for a new bridge across the river Findhorn, in the room of that carried away by the floods of 1829, whether exactly available as capital or not, or even though not yielding a full interest on the money advanced, (which some part of it does,) seems to have been judiciously expended, as regards the common advantage of the burgh.

ALIENATIONS.

The Alienations of burgh property within the last 40 years have been very trifling. Certain excambions entered into during that period, the propriety of which cannot now be accurately investigated, are considered by some of the inhabitants to have been prejudicial to them. A still greater cause of discontent arises from the shutting up of a public road, which ran through the property of a neighbouring proprietor. This last transaction, however, was not sanctioned by the town council, and appears even to have been opposed by the dean of guild for the time. For the last 20 years, all sales and lettings of lands have been by public roup, and after sufficient advertisement; and besides the statutory annual production of the accounts, a salutary custom prevails of reading the whole proceedings of the town council for the past year at an annual head court, publicly proclaimed, and attended in effect by a number of the burgesses and other inhabitants.

Cluny Hills.

It may not be improper to mention one valuable part of the burgh property which yields no rent strictly speaking, although the wood upon it is now rising into value. The Cluny Hills, in the immediate neighbourhood of the town, have been judiciously planted by the burgh, and walks formed through them by private subscription, open to all the inhabitants; an appropriation of burgh property which might with advantage be more generally imitated.

TAXATION.

There are no Taxes for local purposes imposed within the burgh, nor any right claimed to impose such.

JURISDICTION.

It is not known that the exclusive Jurisdiction of sheriffship, granted to the burgh by the charter of James IV., was at any time exercised. The ordinary jurisdiction of the magistrates, which extends over the royalty, including the whole town, is in practice confined in civil matters to actions of debt ranging from £5 to £30, but generally considerably under £30; actions of aliment of prisoners, summary process of removing by chalking, actions of interdict, poinding, &c. On an average of the last 13 years, the number of civil causes tried by the magistrates has been 23 annually. The criminal or police jurisdiction of the magistrates, although comparatively useful in a burgh 12 miles distant from the seat of the Sheriff Court of the county, is represented to be so cumbrous and expensive, as almost to preclude its proper exercise. Only seven cases for petty crimes have been tried annually on an average of the last 13 years. One of these cost the burgh £7 13*s.* 8*d.* of expenses; and although this is above the common expense, yet the charge of trial is generally heavy, and the delay legally required so inconvenient, that frequently an arrangement is made with the accused to submit himself to the leniency of the magistrates: or, what seems still more objectionable, if the accused denies the crime, he is remanded under pretext of further examination, and held in prison for a time judged commensurate to his alleged offence.

The dean of guild exercises the common jurisdiction of that office within the burgh.

PATRONAGE.

The offices under the Patronage of the town council are those of the town clerk and collector of cess, who has a salary of £13, besides a regular charge for business done, and the emoluments arising from burgh infeftments paid by the parties, amounting in all to £173 15*s.* 11*d.* He holds his office of town clerk for life. The treasurer, who has a per centage for collecting the revenue, amounting to £24 5*s.* 10*d.*; the gaoler, at a salary of £12; four burgh officers, at £4 10*s.* each; clock-keeper, and bellman, £9 18*s.*; billet-master, £5; the

burgh fiscal, who formerly received a salary of £5, but is now paid according to the actual business done by him, his accounts amounting to from £13 to £15 annually: the moss officer £1.

The magistrates have also under their patronage a grammar school, an English school for boys, a girls' school, all supported at a heavy expense by the town; and a free school endowed by the late Jonathan Anderson, upon which has lately been ingrafted, by private subscription, an academy for teaching the higher branches of education.

The sum annually arising from Mr. Anderson's foundation is somewhat short of £130. The sum bestowed by the town on school teachers' salaries has already been stated. It would appear that so large a fund might be turned to better account, by amalgamating two or all of the boys' schools, and the number of teachers employed in the girls' school might probably be reduced without disadvantage.

EXCLUSIVE PRIVILEGES.

There are no incorporations of trades in this burgh. Previously to 1818 it was held necessary to be a member of the guildry to enable a person to carry on merchandize in the burgh, and no one was admitted an ordinary burgess with a view to merchandize, unless previously qualified as a guild brother. Owing to some political differences between the town council and the body of the guildry, the council in 1818 discontinued the practice of enforcing the entry of merchants into the guildry, and now it is only necessary for a person opening a shop for the sale of goods within burgh to become a burgess, the whole expense of which is £14 11*s.* 6*d.*, of which £10 goes to the common good.

The guildry, thus disconnected from the body of burgesses, still exists as a separate society. About 20 years ago, the fees of entry were £2 10*s.*, afterwards raised to £5, and ultimately to 10 guineas, exclusive of the stamp and writing, in all £13 10*s.*, after which payment, the member of guildry had his burgess ticket for one guinea paid to the town. At the time of separation the guildry had £1,000 of accumulated capital. No new members have joined since that period, and the fund having now increased to about £1,600, the few remaining members have a minute now under consideration, by which it is proposed to raise the price of admission to £20, and to admit no members under 30 years of age. The present rent of their property is £100, and there are only four widows on the pension list, at £1 10*s.* each yearly, and three decayed members at £2 10*s.* each, which, with £2 yearly given to the daughter of an old member (not strictly entitled), a fee to the officer, and the repairs of the property, consisting of a house let as a hotel, form the whole expenditure of the society. The whole evidence taken on this subject raises a strong suspicion that the object of the remaining members is to exclude intrants; to accumulate as large a fund as possible by neglecting the charitable purposes of its foundation; and, when the number shall be still more reduced, to divide the property among the survivors.

POLICE.

There is no local act for the purposes of Police; the streets are not lighted; water is obtained from pump wells, made and kept up at the expense of the burgh, which also defrays the expense of paving, cleaning, and repairing the streets.

DOCUMENTS.

The following Documents accompany this Report: —

1. Answers to Heads of Inquiry, issued by the Commissioners, September 1833.
2. Report by John Forsyth, Treasurer of Burgh, 1833.
3. Additional Information by the Town Clerk, September 1833.
4. Return by Alexander Urquhart, as to Sett of Burgh.
5. Declaration of John Macrae, Treasurer to Guildry Society, October 1833.
6. Return of Burgesses of the Burgh of Forres, September 1833.
7. Printed Copy Abstract of Treasurer's Accounts, October 1833.
8. Table of Petty Customs in Forres, 1827.
9. Extract from the Guildry Society Record of Forres.
10. Extract Minutes of the Guildry Society of Forres.
11. Certified List of £10 and £5 Houses in Burgh.

ROBERT HUNTER,
C. INNES.

REPORT

ON

THE BURGH OF FORTROSE,

(ROSS-SHIRE.)

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FORTROSE.

The numbers on the margin refer to the Inventory annexed.

HISTORY. THE royal burgh of Fortrose consists of the united burghs of Fortrose and Rosemarkie, which are situate in Ross-shire, within a short distance from each other, on the shore of the Moray Frith. In former times they appear to have been of some importance, as being the seat of the Bishop of Ross; but at present Fortrose is an insignificant town, without manufactures and with very little trade, and Rosemarkie is merely a fishing village.

As, however, they lie on the road leading by Fort George and Invergordon, into the fertile district of East Ross, it is possible that, were that road improved, they might become of more consequence. The Population is about 900.

POPULATION.

CHARTERS. None of the very ancient Charters of these burghs appear to be extant. The oldest deed exhibited, dated 1st September 1590, is a sasine, following on a Crown charter by James VI., 1590. dated 6th August 1590, confirming a charter of James II. The sasine itself does not expressly set forth that the charter was granted by James II., but that it was so is gathered from the subsequent deeds. The charter erects the town and lands of Fortrose into a free burgh royal, gives "full power of making and creating burgesses and freemen of the said burgh, both merchants, craftsmen, and other inhabitants," and "of levying dues and customs used and wont in other burghs," and likewise grants a right to markets and fairs, with the ordinary privileges.

1592. On the 4th of November 1592 a charter was granted by the same King, ratifying a charter of James II., dated 18th June 1455, by which the town of Fortrose was granted to the Bishop of Ross, erected into a free burgh, and annexed to the burgh of Rosemarkie. Amongst other privileges, power is conferred on the council to dispone to the burgesses and other inhabitants the commonty of Rosemarkie and Fortrose in burgh roods, for the building and reparation of the burgh. The two burghs are united into one, to be called the burgh of Rosemarkie, and the inhabitants of Fortrose are to be governed by the council of Rosemarkie.

1612. Those deeds are followed by an instrument of sasine on the foregoing charter, dated 8th January 1592, and a charter dated 18th September 1612, confirming former charters to the united burghs. The precept of sasine is dated 18th September 1612. Parliament on 17th November 1641 ratified the charter of 18th September 1612.

Under date 20th May 1661 there is an extract of an Act of Parliament, ratifying the charter of 6th August 1590, and in respect of the decay of Rosemarkie, and the great prosperity of Fortrose, changing the name of the united burgh to Fortrose, and allowing the fairs, formerly held within the ruinous burgh of Rosemarkie, to be held at Fortrose or Rosemarkie, as shall seem most expedient to the inhabitants of both places.

None of the other deeds or documents exhibited to the Commissioners are of sufficient importance to require notice.

In reporting on the state and condition of the burgh of Fortrose, the Commissioners have the utmost hesitation in going into specific details. The books and other papers were in so much confusion that nothing accurate or certain could be learned, either from examining the documents themselves or from explanations orally given. This arose from a long-continued system of gross mismanagement. Before closing the Report, a few details, similar to those given with relation to other burghs, will be attempted. But, before doing so, the Commissioners deem it to be their duty to bring fully and pointedly under notice the system by which this unusual difficulty has been created.

On the evening of their arrival, the Commissioners were informed by the town clerk that neither he nor any other person besides the provost was at all acquainted with the affairs of the burgh. The provost, in a conversation on the same evening, having confirmed this statement, he was deemed the person whom it was of most importance to examine. Specific complaints of gross mismanagement were made by the burgesses to the Commissioners. Recourse was also had to the testimony of burgesses, whose names were suggested to the Commissioners as capable of indicating some means of expiscating a system of management, the closest perhaps which has existed in Scotland, and which it is therefore important to detail, although the Report should be disproportioned to the relative consequence of the burgh.

ADMINISTRATION. General Nature. The general result of the examination has been, that for about 23 years the affairs of this burgh have been managed exclusively by Mr. Roderick M'Farquhar, who was provost at the date of the investigation. He suffered no one to participate with him in power, and literally reduced the other councillors and burgesses to absolute nonentities.

No. 2, pp. 1, 2, 3. Provost M'Farquhar always held office, being either a councillor, or dean of guild, or treasurer, or provost. But, whatever was his nominal office, all actual power was vested in him. He declared, (with relation to preparing the "Answers to the Heads of Inquiry,) that he prepared the document;" that he acted entirely on his own authority and on his own responsibility; that he previously consulted with nobody; that he afterwards shewed it to nobody; that he neither asked nor received any delegated power from the council; that he believed the

FORTROSE.

council put entire confidence in him; and that there was nobody else in Fortrose, either in the council or out of it, who knew anything on the subject.

No. 2, p. 37. He declared that he considered himself responsible from the year 1809 down to the date of his examination for the sums received and paid out on account of the burgh, and that "he makes himself responsible." One person, of the name of Dempster, an innkeeper in Fortrose, (it afterwards appeared,) he had occasionally used as an assistant, deeming him the only person in the council "he put confidence in to do business."

In the exercise of this plenary power and knowledge, all sums of money were paid over to him, and occasionally they were misappropriated. All the burgh books and accounts were kept in his personal possession, and he even retained privately important minutes of council

No. 2, p. 43. without causing them to be entered in the minute-book. Lawsuits were entered into, and considerable sums were expended without the authority of any recorded minute of council.

No. 2, pp. 41, 44. While he so readily took upon himself the pecuniary responsibility, he declared, when asked if he would undertake to produce positive vouchers for his intromissions, "that he does not know that he can produce express, positive vouchers."

The details which shall now be submitted will be found in accordance with these general statements, and the Commissioners regret that they are compelled to say that the misrepresentation of some matters, the suppression of others, and the variations and contradictions in Mr. M'Farquhar's declaration, were so gross as to amount almost to prevarication.

Ledger represented as public, but really private.

I.—On his first examination, he exhibited to the Commissioners a book intituled "Fortrose Business Pocket Ledger," commencing in October 1822, and terminating in October 1832. This book he palpably represented as being of a public nature, regularly kept by the treasurer,

No. 2, pp. 3, 4, 5. and exhibiting a state of the burgh revenue. But it was established by the declaration of Mr.

No. 6, pp. 1, 5. Donald M'Ritchie, who had been treasurer from 3rd July 1823 to 3rd July 1826, that he

No. 4, pp. 1, 2. had never even seen this book. And the then actual treasurer, Mr. Hector Munro, proved that, although he had the book in his possession for two or three weeks, he had never made use of it.

No. 2, pp. 22, 23. On Mr. M'Farquhar's second examination, having been asked whether his meaning was that this "ledger was a public book, delivered over by each treasurer to his successor in office, kept by the treasurer himself, and having it in his own custody, and entering his own intromissions," he declared that such was his meaning. But when the book was exhibited to him, and he was interrogated how, if it was so kept by each successive treasurer, it is in the handwriting of one person? he declared that he knew it was in the handwriting of one person, and that this arose from its having been begun to be made up, about three or four years ago, by the same person, from the minutes of Council, and a private book kept by himself, to which reference shall immediately be made. When so made up, the book was continued by the same person, viz., Mr. John Dempster, innkeeper in Fortrose, who has been already alluded to.

The Commissioners were anxious to have examined Mr. Dempster, who had frequently been appointed treasurer, had ordinarily acted as such, and was recognised as the confidential friend of Mr. M'Farquhar. On inquiry, they ascertained that Mr. Dempster had left Fortrose a short time before their arrival. One of the burgesses declared that he had done so 10 or

No. 5, pp. 1, 2. 12 days before the Inquiry commenced.

No. 2, pp. 24, 25. No satisfactory account was given by Mr. M'Farquhar of the disappearance of his friend. He stated that he had gone to Glasgow about a month ago, and that he was expected every day in Fortrose. In answer to the question if he had communicated to him the heads of inquiry, he declared "that he believes he did not do so," and, in explanation declares, "that he believes he might have done so." When asked why, as Dempster was the only person he could put confidence in to do business, and who had assisted him, he did not require him to be present, so that he might be examined by the Commissioners? he declared "that he did not think it would be necessary," and, generally, "that he had not paid any attention to the subject."

Although the Commissioners could not succeed in procuring explicit evidence that Dempster had been purposely removed, yet their conviction, from the whole circumstances, is that he had been so.

Books and Accounts concocted and vitiated.

II.—Mr. M'Farquhar concocted Books and Accounts, for the purpose of exhibiting them to the Commissioners as those of the burgh, regularly and statedly prepared.

No. 2, pp. 9, 10. On his first examination he exhibited certain account books, bearing to be "The magistrates of Fortrose in account with the Treasurer," commencing 28th October 1826, and terminating 28th October 1832, which he considered part of the books of the burgh. They were made up by a person employed by him, and under his direction, from the Pocket Ledger and the Minutes of Council. He had no authority from the council, but was convinced that there was a general understanding that he should make up these accounts, as there was no other person capable. They are not subscribed by any office-bearer of the burgh; nor do they bear any other mark of authentication. They were not deposited in any public office belonging to the burgh, but were in Mr. M'Farquhar's custody, as were the burgh books.

From these details the inference would have been, that, although not regular or authenticated, these accounts had been made up periodically, in the ordinary course of the burgh

No. 2, p. 31. transactions. But, on his second examination, the contrary was proved to be the fact. The passage in his declaration now referred to having been read over to him, and he having been "interrogated, whether the said books contain accounts entered in them in each successive year, according to their respective dates? declares, that they were not. Interrogated, if they were all made up at or about the same time? declares, that they were. Interrogated, at what date they were made up? declares, that it was at or about the 15th day of September 1833. Declares, that they were made up after the declarant was aware that the affairs of

the burgh were to be examined by the Burgh Commissioners. Declares, that they were made up to be exhibited to the Commissioners; but that they were making up at any rate."

In the course of the examination relative to these accounts, Mr. M'Farquhar incidentally, and, as it appeared to the Commissioners, through inadvertence, referred to a book containing certain of the burgh accounts. This book had not been laid before them, along with the other books, and no indication of its existence had been given, until Mr. M'Farquhar's examination was far advanced. Exhibition of it having been required, Mr. M'Farquhar went for it, and brought it from his own house. When inspected, it was found to be a folio, entitled, "Charge and Discharge, the Magistrates of Fortrose and R. M'Farquhar, their Treasurer," commencing 24th October 1809, and ending 22nd October 1818; but also bearing the names of other treasurers in account with the burgh. Mr. M'Farquhar declares "that the said book was commenced by the declarant on 1st September 1833, and is in the handwriting of a person of the name of Daniel Fraser. Declares, that it was the intention of the declarant that this book should contain the whole transactions of the burgh since the date when the book began. Declares, that it was the declarant's intention to have prepared this book several years ago, but that circumstances prevented him. Declares, that the said book was begun after the declarant was aware that the Burgh Commissioners were to visit this burgh, and examine into the state of the affairs of this burgh; but that he would have made it up at any rate. Interrogated whether, if the book had been completed before the Commissioners arrived here, it was his intention to have exhibited the said book to the Commissioners as containing a full and accurate account of the affairs of this burgh? declares, that it was, and that he meant to have exhibited, at the same time, all relative books and documents. Interrogated, why the said book was not completed? declares, that there was not time to complete it before the Commissioners arrived. Interrogated whether, when the declarant found that there was not time to complete it, he made up the books of accounts commencing in October 1826, before mentioned, in order to exhibit them to the Commissioners? declares, that he did, along with the other books." No. 2, pp. 32, 34.

As these books were concocted, another book was so much vitiated as to be wholly undeserving of attention. On his second examination, Mr. M'Farquhar "Declares and exhibits to the Commissioners a book, said to contain a state of the division, amongst the poor of Fortrose, of funds arising from mortifications; and the Commissioners having indicated to the declarant that a number of entries in the said book, and several of them applying to important sums, are vitiated, and desired him to explain the cause of such vitiation, declares, That the said vitiations were made in consequence of the carelessness of the person by whom the said entries were written." The Commissioners did not deem this explanation satisfactory, as, like all the other books, this was made under the personal superintendence of Mr. M'Farquhar; and accordingly they, on the Record, "Declare that, on account of the vitiations, they cannot attach any faith to the said book." No. 2, pp. 45, 46.

An attempt was made by Mr. M'Farquhar, on his second examination, to supply the deficiencies of the books and accounts already noticed, by producing a book intituled "The Magistrates of Fortrose in Account with Roderick M'Farquhar, as per their Account with Treasurer," commencing 4th October 1809, and terminating 27th October 1825. This he declared to be a record of his "Intromissions with the affairs of the burgh, kept by the declarant as a charge against himself, he alone having intromitted with the affairs of the burgh during the years in question;" "and that it was made up from the accounts given in by the treasurers at the annual meetings." Although this book had been complete or correct in so far as it extended, yet, as the transactions of the last eight years were not contained in it, it obviously could not have supplied the acknowledged deficiencies. But it is neither complete nor correct. In the book stated by Mr. M'Farquhar to have been begun by him on the 1st of September 1833, and the book stated by him to have been made up by him as a record of his intromissions, there existed marked discrepancies relative to the balances for the years 1814-15, and certain other years. These discrepancies are exhibited thus:— No. 2, pp. 34, 35.

NEW BOOK.	£.	s.	d.	OLD BOOK.	£.	s.	d.
Balance in 1814	124	7	3½	Balance in 1814	109	9	4½
„ in 1815	110	16	1	„ in 1815	88	12	1
„ in 1816	116	6	8	„ in 1816	89	17	8
„ in 1817	118	15	2½	„ in 1817	101	5	6

When desired to explain why these balances "are so widely different," he declared that "the explanation is, that the difference arises, 1st, from William Young, the town clerk, not having charged himself with £6 8*s.* as churchyard's grass for the year 1810, which he ought to have done; 2nd, that the same thing occurs in several other instances. Declares, that he has no other explanation to give." This explanation is quite unsatisfactory, because, although the sum of £6 8*s.* was added to each of the balances in the old book, it could not nearly make up the discrepancies between the balances in it and those in the new. Both of these books, it must be kept in view, were exhibited by Mr. M'Farquhar on his second examination, after having declared, on his first examination, that besides the Council Minute Book and the Pocket Ledger, "there are no other books belonging to the burgh." No. 2, p. 9.

III.—The Accounts of the burgh were never audited.

Mr. M'Farquhar "having been interrogated whether, at any time, the accounts of the burgh were examined and audited, and compared with the vouchers, and doqueted by the whole council or any committee of their number? declares, that they were not; and having been interrogated, whether the declarant at any time expressed his desire that his accounts should be audited by the council, or a committee, or any other person appointed by them? declares, Accounts never audited.

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that he did not; and that he did not do so, upon account of the confidence which he knew they placed in him, which confidence arose from their knowledge that the declarant was considerable sums in advance to the burgh."

Burgesses prevented from knowing state of Accounts.

IV.—In accordance with Mr. M'Farquhar's system of exclusive management, all means were resorted to for preventing the Burgesses from acquiring a knowledge of the true state of the Accounts.

No. 2, pp. 6, 9.

First. The accounts were for a series of years not inserted in the council minute-book. When Mr. M'Farquhar was interrogated, Whether the treasurer's accounts were annually made up, and laid before the council, he declared "that they were, towards the latter end of October, and that such had always been the practice, and that he believes that it will so appear from the minute-books." Having been shown the minute of council of 29th October 1819, in which it is stated that "thereafter, the magistrates considering that this day was appointed for auditing the treasurer's accounts, and finding that these accounts were not thoroughly prepared, they adjourn the examination and auditing of them until the 16th of November next," "Declares, that the purport of the said minute is, that the treasurer was the person who was not prepared. Interrogated, whether there was a meeting for the auditing of the said accounts on the said 16th of November? declares, that from the said minute-book it appears that there was no such meeting, and that the next meeting of council was on the 13th of March 1820, at which nothing was done relative to the said accounts. Interrogated, What is the date of the next minute of council which bears the transaction of any business relative to the accounts of the burgh? Declares, after inspection of the minute-book, that the next minute is of date 3rd March 1821. Declares, upon inspecting the said minute, he observes, that there are inserted the accounts of several treasurers of the burgh, commencing 27th October 1818, and ending 27th October 1821, but that the said minute does not bear that the said accounts were audited, or the transaction of any other business relative to the said accounts. Declares, that though the said accounts were annually given in to the town clerk to be recorded, he did not record them, so that it became necessary to have the whole recorded at one time. Interrogated, whether from October 1826 to October 1830, inclusive, there is in the minute-book of the burgh any entry of the said accounts, or any notice taken, or mention made, of the accounts of the burgh? declares, after inspecting the said minutes, that there is not. Interrogated, whether any mention is made, or notice taken, of the said accounts in any other of the burgh books, excepting the said pocket ledger? declares, that there are no other books belonging to the burgh." By this evidence it is proved, that for several years, occurring at different periods, the accounts were neither audited nor recorded. Nor can Mr. M'Farquhar devolve the blame either upon the treasurer or town clerk, as he not only actually managed the whole affairs, but declared that there was no other person capable of managing them.

Secondly. The burgesses were excluded from examining into the accounts. On his first examination, Mr. M'Farquhar, after having stated "that the accounts had not been audited or doqueted, was interrogated, whether a stated account was annually made up by the declarant, or any other office-bearer, and laid along with the vouchers before the council, or any committee of their number? declares, that this was not done annually. Declares, that on one or other of the days between the 22nd and 29th days of October, the declarant annually stated, in open council, before the magistrates and council, and burgesses and inhabitants of the burgh, that he had the said accounts and vouchers in his possession, and was prepared to exhibit them, and give every information regarding them to any person whatsoever. Interrogated, whether any one required examination of the said accounts? declares, that examination was at every meeting required by some one or more, and that the said accounts were accordingly laid open to them for examination. Interrogated, whether the said statement was always made by the declarant, whatever office he held, whether provost, bailie, counsellor, or treasurer, or was ever made by any other office-bearer? declares, that it was made by the declarant, and never by any other office-bearer."

While the fact that the statement was always made by Mr. M'Farquhar affords additional evidence of his exclusive management, it must have served to impress more strongly upon his mind the *res gestæ*; and more particularly, whether the accounts were actually examined by several of the burgesses? and, if so, by whom? The obvious purport of the statement is, that the accounts had really been examined by some of the burgesses every year; and it was incredible that the names of some of them should not have remained in the recollection of the only officiating functionary. On his second examination, this passage in his declaration having been read over to him, he was "Interrogated and desired to state the names of one or more persons who, at two or three of such meetings, required such examination of the accounts, and had them laid open to them for examination? declares, that he does not recollect that, upon any one occasion, any person did call for examination of the said accounts." This was an express contradiction of his former statement relative to the accounts generally. But with relation to the pocket ledger, he declared, "that he recollects that, at one of the Michaelmas meetings, when the burgesses were present, within the last three years, Hugh Macallan, shoemaker in Rosemarkie, inspected the said book at the council table, and handed it to others, who also inspected it, as the declarant saw; but that he does not now recollect the names of any such others. Interrogated, whether he recollects of the said book being in the hands of the burgesses on any other occasion than that referred to? declares, "that he does not, but that it was on the table for their inspection." In consequence, the decided statement that the accounts had been examined by the burgesses resolves into the fact that, upon one occasion, a single person named had looked into the pocket ledger.

No. 2, pp. 29, 31.

The inferences necessarily drawn from Mr. M'Farquhar's declaration are confirmed by the

evidence of Mr. Donald M'Ritchie, who, for some time, *nominally* filled the office of treasurer. He declares "that, at annual meetings of council in October, Mr. M'Farquhar used to speak about the town's affairs and finances, but never referred to any accounts made up, still less exhibited any accounts to the council; and is sure no state of the burgh affairs was ever made out by Mr. M'Farquhar, for exhibiting to the burgesses and inhabitants, nor even to the council. At meetings of council the minute-book was on the table, but no other books, so far as declarant recollects. No. 6, pp. 3, 4.

V.—The burgh accounts were not made up in terms of the statute.

Mr. M'Farquhar having been interrogated "whether the magistrates and council of this burgh have complied with the Act 3 Geo. IV. cap. 91, in making up, and depositing, and transmitting their accounts, in the form and manner prescribed by the said Act? declares, that in no one instance have the provisions of the said statute been complied with in any manner, or to any extent, (and the Commissioners having inspected the minutes of the town council, and other books, found no trace of the said statute having been complied with). Interrogated, why the provisions of the said statute were not complied with? declares, that the only reason which he can assign is, that he did not consider it of importance so to do, on account of the small concerns of the burgh. Interrogated, whether he had read the said statute, and observed that it was applicable to all royal burghs whatsoever? declares, that he did so. Interrogated why, observing that it was thus generally applicable, he could suppose it was not applicable to this burgh? declares, that there was a great omission in not having complied with it." No. 2, pp. 13, 14.

When obliged, under Mr. Kennedy's motion, to make returns, he prepared them in his own handwriting, and declared "that they were made up by himself, with the assistance of the town clerk, from the books and accounts already exhibited to the Commissioners, (viz. on his first examination,) and that the town clerk did not examine the relative vouchers." The town clerk declared "that he has not seen any accounts of the burgh made up for the last seven or eight years, with the exception of accounts returned to the House of Commons, exhibited to him by the provost this summer, which account the provost desired the declarant to sign along with himself, and which the declarant signed without examination, taking it for granted that they were correct, on the provost's statement." The declaration of Mr. M'Farquhar, therefore, that these returns were made with the assistance of the town clerk, is a palpable misstatement. No. 2, p. 15. No. 3, pp. 1, 2.

VI.—The malversation of Mr. M'Farquhar was not confined to the mal-administration of the burgh accounts, for monies were misapplied by him, acts, deeply affecting the welfare of the burgh, done without authority, and important Minutes of Council intentionally suppressed. Misapplication of Funds. Acts done without authority, and concealment of Documents.

First. Mr. John Stirling stated in his declaration, "That after Mr. R. Grant's connexion with the burgh had ceased, he had given £100 for defraying the expense of bringing water into the town,—that he and the other inhabitants were confident it had not been so applied, and that he had heard from Mr. M'Farquhar himself, that part had been applied to retire a bill which Mr. M'Farquhar, without authority, had taken from a bankrupt feuar for arrears of feu-duty. No. 5, pp. 2, 3, 4.

On Mr. M'Farquhar's examination "he admitted that such a bill had been drawn and discounted by him, and the proceeds placed by him to the credit of the burgh." After having admitted "that he had retired the bill out of the funds of the burgh, and that there is no entry in the books of the burgh relative to the retiring of this bill, or any part of the transaction," he declares, being interrogated, "that £100 sterling was paid by Robert Grant, Esq., M.P., as a gift to the burgh, for the purpose of bringing water into the burgh, about the years 1829, 1830, or 1831. Interrogated, whether that sum is entered in the books of the burgh as so given? declares, that it is not. Interrogated, if the said sum of money was applied to the said purpose? declares, that it was not. Interrogated, and desired to explain to whom that money was paid, and to what purpose it was applied? declares, that the said sum was placed by Mr. Edwards, Mr. Robert Grant's agent in Inverness, to the credit of the declarant's private account with the British Linen Company in Inverness; and declares, that it was applied for the purpose of retiring bills which the declarant had accepted for the burgh. Declares, that he wishes to state, in explanation, that there is entered in the account intituled 'Magistrates of Fortrose in account with Hector Munro, their Treasurer,' under date 28th October 1832, 'R. Grant, Esq., M.P., for the benefit of the burgh, £100.' Declares and exhibits to the Commissioners a number of retired bills to a large amount, some of them drawn upon, and accepted by, the declarant and others, as office-bearers of the burgh; and others of the said bills drawn upon, and accepted by, the declarant and others as individuals. Declares, that these were the bills in retiring which, in part, the said sum of £100 was applied." No. 2, pp. 39, 42.

Secondly. Transactions deeply affecting the welfare of the burgh were entered into without legal authority. Two examples of this are afforded by Mr. M'Farquhar's declaration. The first relates to the bill transactions already noticed, and the second to a lawsuit in which the burgh was involved. Both are proved by the same passage. Mr. M'Farquhar having been interrogated, and desired "to exhibit to the Commissioners the authority of the council by virtue of which the said (bill) transactions were entered into, as contained in the minute-book of the burgh? declares, that there is no such authority contained in the minute-book. Declares and exhibits to the Commissioners a document purporting to be a minute of council, dated 28th January 1833, by which authority is stated to have been given to the declarant and four others to borrow from the Inverness banks the sum of £160, towards defraying the expense of a lawsuit entered into by the burgh, relative to the division of the commonty of Mill Bowie. Declares, that he considers the said minute as a warrant for entering into the

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said bill transactions. Declares, that the said document is not recorded in the minute-book of the burgh, and has all along been in the private custody of the declarant. Interrogated, and desired to exhibit to the Commissioners the minute of the magistrates and council giving authority to raise and insist in the lawsuit before mentioned, (viz. that relative to the division of the commonty of Mill Bowie:) declares, that he cannot exhibit any such minute to the Commissioners, and that to the best of his belief there is no such minute."

Thirdly. Minutes relative to important transactions were not inserted in the record. When the Commissioners examined the council minute-book they found that it had been most inaccurately kept. Not only (as shewn with relation to the accounts) were documents inserted long after the period to which they were applicable, but large blanks had been left.

No. 2, pp. 44, 45. Accordingly Mr. M'Farquhar having been interrogated "whether the books exhibited to the Commissioners as the minute-books of the burgh contained, to the best of the declarant's belief, a full, true, and regular account of the transactions of the said burgh; or whether any important transactions are not minuted therein? declares, that he does not believe that they contain all the important transactions. Interrogated, whether these were intentionally omitted? declares, that they were not; but were omitted from the ignorance of the men of business of the burgh. Interrogated, whether any blanks were ever left in the said minute-book? declares, that he is ignorant of the same, as the minute-book was left entirely to the management of the town clerk: and a blank of two pages having been exhibited to the declarant, and he having been interrogated to give some account why the said blanks were left, declares, that, for reasons stated in his former answers, he cannot."

Neither the denial that the transactions were intentionally omitted, nor the attempt to devolve the blame upon others, can avail Mr. M'Farquhar. The transactions which have been detailed immediately before shew not only that important matters had been intentionally omitted, but that the documents which could be competently recorded only in the council minute-book had been retained for years in the possession of Mr. M'Farquhar, and kept by him profoundly secret, until compelled to exhibit them under the present investigation. Nor, as he so repeatedly declared "that he alone was capable to manage the whole affairs of the burgh," could such extraordinary irregularities have taken place without his approbation, or, at least, without his knowledge.

Evidence of Burgesses as to preceding matters.

VII.—Were it necessary to give confirmation either to the fact of this system of exclusive management or its pernicious effects, it would be afforded by the Evidence of certain of the Burgesses. Strong complaints having been made to the Commissioners of the mode in which the affairs of the burgh had been conducted, some of the burgesses were examined. While, by the necessary operation of the system of exclusion, they could not give detailed information, the general tenor of their evidence proved that their complaints were well founded, and, to some extent, furnished to the Commissioners the means of pursuing the necessary investigation.

No. 7, p. 1. The burgesses, both in direct terms and by statements creating irresistible inferences, proved that Mr. M'Farquhar had alone managed the affairs of the burgh. Mr. John Macleman declared, "That he is a native of Fortrose, where he has resided all his life. That he was formerly in the council for ten years; that he, along with six others, was turned off for voting against the provost (Mr. M'Farquhar) on the election of Mr. R. Grant, about four years ago; that no member had anything to say in council but M'Farquhar; if any one opposed him he was turned off immediately. And that the inhabitants and burgesses, and even members of council, have been kept blind to all the affairs of the burgh." Mr. Donald

No. 6, pp. 2, 4, 5. M'Ritchie declared, "That Mr. M'Farquhar, in fact, conducted the whole business of the burgh, whether he nominally filled the office of provost or not. And that, on occasion of the contest for the representation of this district of burghs between Mr. R. Grant and the Laird of M'Leod, the party in the council with whom the declarant acted were offended at Mr. M'Farquhar's promising Mr. Grant the burgh's vote without consulting with the council; and that party accordingly supported M'Leod. On which, Mr. M'Farquhar, having outvoted them by one in council, turned out the whole opposing members of council, that is, five the first year, and two the next, stating 'that as they could not agree in politics a separation was

No. 5, pp. 1, 2. desirable.'" Mr. Stirling declared, "that although in the year 1828 he expressed to the council his intention to withdraw, he was afterwards nominated treasurer; and notwithstanding repeated declarations that he would not act as treasurer, (and he never did act,) he was continued in the books, as holding that office, for two years." During the time when he was so nominally treasurer the town revenue was collected by Mr. Dempster, a confidential friend of Mr. M'Farquhar.

Two of the burgesses, one of whom had been treasurer, and the other, who actually was so, concur in stating that the office was merely virtual. Mr. Donald M'Ritchie, who was treasurer from 1819 to 1823, declares that while he collected the monies he, "with the exception of some petty payments, handed the money, when collected, to Mr. M'Farquhar," whatever office that gentleman filled. No regular accounts were kept by him; but he exhibited to the Commissioners a jotting of the sums collected, to which there was adhibited the signatures of Mr. M'Farquhar and one of the bailies, which formed the only discharge he ever obtained. No access was given to him to know the state of the affairs of the burgh; but it was generally known that the burgh was in debt, and that debt was annually contracting for law expenses, the amount of which debt was unknown. Nor was the revenue of the burgh known "further than the declarant might learn from such partial notes given him from time to time for the purpose of collection."

No. 6. The declaration of Mr. Hector Monro, the actual treasurer, was of the same general purport. He declared "that no regular account was made up of charge against him, or by which he was to collect. That he collected according to the instructions of the provost; and

that, in fact, he does not know the revenue of the town, or what in whole ought to be collected, having only been employed from time to time in making partial collections."

It is, however, but justice to Mr. M'Farquhar to state, that when he was specially interrogated regarding the mode of disposal of two sums, viz. £32 and £20 4*s.*, his answers corresponded with the entries in the book of jottings kept by the treasurer, Mr. M'Ritchie, out of which the interrogatories were made, and which Mr. M'Farquhar had not a previous opportunity of seeing.

Details as to State and Condition of the Burgh.

The Commissioners will now give such details relative to the affairs of the Burgh as they have been able to obtain. Authentic materials, or accurate information, were obviously unattainable under the circumstances which have been stated. The materials are derived almost wholly from the written answers to the Heads of Inquiry prepared by Mr. M'Farquhar, and his parole testimony, combined with the statements of a few of the burgesses. In consequence of the particular position in which the affairs have been shewn to be placed, the Commissioners consider it to be their duty to adhere to the words used in the documents and declarations on which their Report is founded.

ARTICLE I.—Property, &c.

Property. No. 1, p. 1.

The Property of the burgh consists of feus of land, and waste spots of ground, on parts of which houses have been built, thereby increasing the value, and may be taken at twenty years' purchase, £1,700. There are no houses, churches, mills, fisheries, nor cash; but there is a harbour, and there are arrears of feus due which amount to £611 17*s.* 2*d.*, and which, it is expected, will be gradually recovered.

A few details were communicated relative to the harbour and feus.

No. 2, pp. 46, 47.

Mr. M'Farquhar having been examined with regard to the expense of building the pier, and the funds from which it was supplied, "declares, that the contract price of the pier was £3,482, of which £1,700 was paid by the Commissioners of Highland Roads and Bridges, £635 by the convention of Royal Burghs, 200 guineas by Mr. Mackenzie of Flourburn; that the declarant was the contractor: that £250 were saved on the contract by the discovery of a former pier for the foundation, which sum, and the remainder of the expense, the declarant contributed to the expense of the pier; that a sum of £81 beyond the contract was allowed, by order of Mr. Telford, on account of his having made an error in one calculation; that the declarant has not stated his advances on this account against the town, and does not hold them as such, but intended them, and still means them, as a gratuity."

The statement that Mr. M'Farquhar was the contractor may be safely assumed as correct. What weight ought to be attached to the other parts of the declaration, the Commissioners cannot determine.

No. 2, pp. 17, 18.

According to Mr. M'Farquhar's declaration, the feus were always granted, "after public proclamation at the church door, and by the common bellman. That the mode was by public roup, and invariably to the highest bidder." The fact that public roup was the mode adopted with relation to considerable feus granted at a certain time was verified by the exhibition to the Commissioners of two entries in the minute-book, dated the 8th and 15th of August 1817.

No. 5, p. 5.

Abatements of the feu-duties, because too heavy, had been given, it was said, by Mr. M'Farquhar, to all the feuars proportionally. But it was said, by Mr. John Stirling, that a Mr. Lawrence, who paid a feu-duty of £49 10*s.*, having been desirous to give up an unprofitable part of the land, the council, without any publication or new roup, relieved him of the part of the ground he wished to give up, and reduced his feu-duty to £10 10*s.*, and that the part so given up has not yielded since any profit to the town."

No. 5, pp. 1, 2.

Full or precise information has not been obtained concerning the causes from which the arrears of feu-duty have become so large; but an opinion prevailed, that it was owing to the mal-administration of Mr. M'Farquhar. Mr. Stirling declared "that in 1829 or 1830 a Mr. Stevenson took a feu from the town at a duty of £60 or £63 annually; that, for the first year's feu-duty, the provost, M'Farquhar, without consulting the council, took Stevenson's bill, and the bill was renewed repeatedly; that the second and third years' feu-duties were not recovered: that the whole three years, or the far greater part, might have been recovered for the town, if proper measures had been used for the three years before Mr. Stevenson became bankrupt, which happened about a year ago, and then he gave up his feu."

As before stated, Mr. Stirling then proceeded to declare that Mr. Stevenson's bill, having been discounted, was retired with the money which Mr. Robert Grant had given for bringing water into the town. This evidence is confirmed by the declaration of Mr. M'Farquhar, who, being "interrogated whether a person of the name of John Stevenson held lands feu of the burgh, and what was the amount of feu-duty paid by him? declares that he did, and that the feu-duty was £61 1*s.* Declares that the said John Stevenson became bankrupt; and about the time of his bankruptcy he accepted a bill, drawn by the declarant, for the amount of the said feu-duty." After which he detailed the transactions relative to this bill, which have been already narrated.

Vide supra. pp. 41-2.

Annual Revenue. Answers to Heads of Inquiry, No. 1, p. 1.

The Annual Revenue amounts to £85 14*s.* 6*d*, including what is derived from customs and the harbour. No detailed statements were furnished to the Commissioners; nor did it appear to them that there were any accurate or authentic sources from which details could be drawn.

Alienations. No. 1.

There had been sold the ruins of a school-house, with a small garden attached to it, and the price received was £40.

The feus already mentioned must, of course, be included among the Alienations; but no list of them was attainable.

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No. 6, p. 2.
No. 7, pp. 1, 2.

An opinion prevailed among the burgesses that the town "has lost at different times, by the neglect and remissness of the council," certain valuable pieces of property. Those enumerated were, *First*, the clay-pits, formerly used by the inhabitants; *Second*, a bleaching-green at Platcock; *Third*, ground at the Craigburn; *Fourth*, ground at the road leading to the clay-pits; *Fifth*, the stance of Stirling's distillery. All these, it was said, were taken possession of by various proprietors in the neighbourhood. No evidence, however, was shown to the Commissioners that these subjects had ever belonged to the burgh; and information afterwards communicated to them (but which they could not warrantably commit to writing) led them to entertain doubts of the alleged rights of the burgh.

EXPENDITURE.

No. 1, p. 1.
No. 2, pp. 18, 19.

The Annual Expenditure was stated to be £5 11*s.* 2*d.* as the salaries of the town clerk, burgh officers, who occasionally act as gaolers, and a bellman, to whom jointly is paid the sum of £2 10*s.*, with about £3 18*s.* 10*d.* for postages and incidents, making a total of £12. There is also payable a sum of £20 as interest of debt. A serious charge of undue expenditure was made by the burgesses against Mr. M'Farquhar, but which he denied. Whether the charge was or was not founded, the Commissioners had not the means of determining.

No. 5, p. 4.

Mr. John Stirling declared "that a feu called the Smithy Holm was formerly held by one Macintosh. That Cameron purchased the ground, and continued to pay to the town the same duty paid by Macintosh, 3*s.* 6*d.* That M'Farquhar, whose property adjoins, claimed the ground as his property: that Cameron called on the town to defend his right, which the council agreed to do: that an action was raised by M'Farquhar, who undertook to pay his own expenses if beaten: that Cameron's right was ultimately sustained by the Court of Session. That, notwithstanding these circumstances, M'Farquhar made his expenses a charge against the town, and they were actually paid out of the town funds."

No. 3, p. 2.

The town clerk, Mr. William Young, "declares, with regard to the feu of Smithy Holm, to the same effect with John Stirling, a former witness, whose declaration as to that matter was read to declarant, except that he does not know that the council agreed to defend Cameron's right, although they might have been compelled to do so, being liable to him (as coming in place of Macintosh) in warrandice: declares, that Cameron is dead; that Mr. John M'Andrew, solicitor, Edinburgh, acted as Cameron's agent;" but Mr. M'Farquhar

No. 2, pp. 38, 39.

"declares that he raised an action against the said Donald Macintosh to recover the property of the said piece of ground, as it was contained in the declarant's titles: declares, that the said action was raised before the Court of Session: declares, that he passed from the action, as he was informed by his agent in Edinburgh that an action of damages was raised against the town by Macintosh, and the person to whom he sold it. Declares, that expenses to the amount of £43 were awarded against the declarant, and expenses to the amount of £20 were awarded against the magistrates. Declares and exhibits the entry in the said record of his intromissions, by which the said sum of £20 of expenses was paid by the burgh. Interrogated, whether he charged the said sum of £43, awarded against himself, against the burgh directly or indirectly? declares, that he did not."

DEBTS.

No. 1, p. 1.
No. 2, pp. 18, 19.

The burgh owes, *first*, £500 on a bond granted by the magistrates and council. *Secondly*, there is also a sum of £400, "due to an individual," which he had advanced for purposes essential to the burgh. In his declaration, Mr. M'Farquhar stated that this last-mentioned debt "is due to the declarant, and arises as a balance in accounting between the town and himself, the declarant having been in the practice, since December 1820, of advancing sums of money on account of law proceedings to the burgh's agents in Edinburgh, and having advanced £51 as part of the expense of bringing water into the burgh, and £144 for a clock for the burgh. Declares, that the sum of £400, stated in the 'answers' as due to an individual, constitutes the whole charge of the declarant against the town at this date, including principal and interest." It is almost needless for the Commissioners to observe that there was not exhibited to them any entries in any book or account, nor any vouchers, by which this alleged debt is verified. *Thirdly*, there are open accounts amounting to about £150, which, it is said, had been unavoidably incurred by law processes. Thus, the whole debt is £650, independently of the apocryphal claim of Mr. M'Farquhar.

ARTICLE II.—TAXATION.

TAXATION.

No. 1, p. 1.
No. 2, p. 19.

The magistrates and council impose a Tax of £3 18*s.*, payable to the Exchequer as a land tax or stent. There is also an assessment amounting to £18, imposed by Act of Parliament, dated the 10th of July 1825, for making and maintaining roads, and converting the statute labour in the counties of Ross and Cromarty, and part of Nairnshire locally situate in the county of Ross. There is no other assessment or stent.

The power of imposing these taxes is exercised by the appointment of stent-masters, within the limits merely of the burgage territory of Fortrose and Rosemarkie, and they are imposed upon all the inhabitants.

ARTICLE III.—JURISDICTION.

JURISDICTION.

No. 1, p. 2.
No. 3, p. 1.

There is nothing peculiar with relation to Jurisdiction. The cases, either civil or criminal, which have been brought into court, were so few that no record of them had been kept. The cases are chiefly actions of debt, removings, and aliment, and amount to about 20 or 30 in a year. The magistrates are assisted by the town clerk as assessor "when he is found competent."

ARTICLE IV.—PATRONAGE.

PATRONAGE.

No. 1, p. 2.
No. 2, pp. 19, 20.
No. 3, p. 2.

The civil offices under the Patronage of the magistrates and council are the town clerk, four burgh officers, and a bellman, whose salaries were formerly stated under the article "Expendi-

FORTROSE.

ture." The town clerk besides his salary receives from the ordinary fees additional emoluments, amounting on an average to £15. No consideration was ever paid by any of these officers for their appointments. There is also a treasurer, who receives no salary. Whether the principal officers can be said to act in person in this burgh may well be doubted, as their more important functions have always been discharged by Mr. M'Farquhar.

Any observations as to the mode in which those officers administer the affairs would be superfluous. The town clerk declared "that he keeps no other books but the council minute-book, and a register of burgh charters, which he has recently commenced." No. 3, p. 1.

SCHOOLS.

At present there is no Burgh School. There was, it was said, a very respectable school; but it has been superseded by the establishment of an academy, supported by subscription, and managed by directors appointed by the subscribers. "There have been, however, mortified by the bishop, dean, and chapter of the diocese of Ross, certain feus, under the name of manse mails, towards the salary of a schoolmaster, which, with the parochial salary, afforded a salary. The manse mails amounted to between £5 and £6, which are not uplifted, but reserved, with the view of re-establishing the grammar school." This is the statement of Mr. M'Farquhar, in his written answers to the heads of Inquiry. In his declaration he stated that "the manse mails mortified, and formerly applied for support of a schoolmaster, are not now levied, because no schoolmaster has been appointed since the establishment of the academy, and because the town council did not think it proper to bestow this income, appropriated for a parochial schoolmaster, on an establishment which the people thought too expensive for the education of their children. The council, therefore, wished to restore a parochial school in the burgh, and keep a regular account of the manse mails against all having houses liable to that burden, which is entered in the annual accounts of the burgh." No. 1, p. 3.

ARTICLE V.—Exclusive Privileges.

EXCLUSIVE PRIVILEGES.

The qualification of a burgess entitles him to manufacture and trade. The fees paid by ordinary tradesmen are £3 3*s*., and by those in higher stations £5 5*s*. This was explained to mean that the fees of entry of burgesses are regulated at £5 5*s*. or £3 3*s*., according to the council's estimate of the applicant's circumstances and situation. There is no higher entry-fee than £5 5*s*. The sons of burgesses, whether eldest or not, are admitted at half fees; but it depends upon the council's estimate of their ability whether they pay half the greater or half the smaller sum. The total number of burgesses is 63. But there are no more than 46 resident within the burgh. No. 1, p. 3. No. 2, p. 21.

There are no Corporations enjoying Exclusive Privileges. No licences are granted by the magistrates. There are no provisions for decayed burgesses, or their widows or children, and no individual burgess derives any advantage from the common good of the burgh.

ARTICLE VI.—Sett of Burgh.

SETT OF BURGH.

There has been no change on the Sett of the Burgh since 1819. The council consists of a provost, three bailies, a dean of guild, a treasurer, and nine councillors—in all 15.

The whole population of the burgh is about 1,100. There are about 96 houses, the rent of which is below £10.

ARTICLE VII.—Police.

POLICE.

There is nothing peculiar with relation to the Police of this burgh with the exception of the gaol, which is under the council room, situate in the churchyard, and is altogether devoid of every requisite for accommodation or cleanliness. It is obviously unhealthy, and is so insecure that, at the time when the Commissioners were at Fortrose, the only prisoner which it contained made his escape, by removing the earth from under the door.

DOCUMENTS.

The following Documents accompany this Report:

1. Answers to Heads of Inquiry issued by the Commissioners.
2. Declaration of Provost M'Farquhar.
3. „ Mr. William Young, Town Clerk.
4. „ Mr. Hector Munro, Treasurer.
5. „ Mr. John Stirling.
6. „ Mr. Donald M'Ritchie, Merchant.
7. „ Mr. John M'Leman.
8. Note of Charters of Fortrose.

ROBERT HUNTER,
C. INNES.

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